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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

INFLATION RESTRAINT ACT

TUESDAY, NOVEMBER 23, 1982

Afternoon sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breitnaupt, J. R. (Kitchener L)
Cooke, D. S. (Windsor-Riverside NDP)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mackenzie, R. W. (Hamilton East NDP)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Stevenson, K. R. (Durham-York PC)
Watson, A. N. (Chatham-Kent PC)
Wrye, W. M. (Windsor-Sandwich L)

Substitutions:

Barlow, W. W. (Cambridge PC) for Mr. Treleaven
MacQuarrie, R. W. (Carleton East PC) for Mr. Brandt
McKessock, R. (Grey L) for Mr. Wrye
O'Neil, H. P. (Quinte L) for Mr. Breitnaupt
Renwick, J. A. (Riverdale NDP) for Mr. Cooke

Also taking part:

Jones, T., Parliamentary Assistant to the Treasurer of Ontario and
Minister of Economics (Mississauga North PC)
Martel, E. W. (Sudbury East NDP)

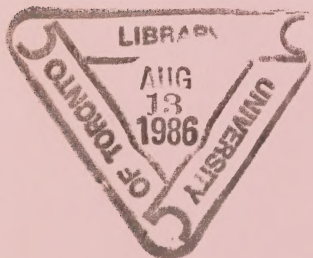
Clerk: Arnott, D.

From the Ministry of Treasury and Economics:

Bass, J. H., Solicitor, Office of Legal Services
Davies, B. P., Assistant Deputy Minister, Office of Economic Policy
Stoodley, G., Director, Office of Legal Services

From the Ministry of the Attorney General:

Fader, J. A., Deputy Senior Legislative Counsel



LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, November 23, 1982

The committee met at 4:49 p.m. in room 151.

INFLATION RESTRAINT ACT
(continued)

Resuming consideration of Bill 179, An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province.

The Acting Chairman (Mr. Eves): We would appear to have a quorum. I understand there has been an agreement reached among all three parties that will permit me to take over as chairman in Mr. Treleaven's absence this afternoon. Is that correct? Silence means consent.

Mr. Mitchell: Mr. Chairman, since this committee does not have a vice-chairman, I would be prepared to introduce a motion if it is necessary, but I believe it has been agreed that Mr. Eves can substitute today.

Mr. Watson: We'll try you out.

The Acting Chairman: Your confidence is overwhelming.

Mr. Piché: On a secret ballot you would never make it.

Mr. Watson: Let us try you out.

The Acting Chairman: I'm game for that. I'm not so sure I want the job anyway. I believe Mr. Renwick had the floor.

Mr. Renwick: Yes, I do.

The Acting Chairman: Mr. Renwick, I make you a promise I will never use the words "mandatory instructions."

Mr. Renwick: I can now relax.

Mr. Piché: On a point of order, Mr. Chairman, before Mr. Renwick starts, how many speakers are left?

The Acting Chairman: The speakers I have on the current list are Mr. Renwick, Mr. Cooke, Mr. Elston and Mr. Johnston in that order. Mr. Renwick, would you like to continue?

Mr. Renwick: Yes, Mr. Chairman. I am sure you will recall I was speaking last Thursday about the question of our amendment.

Mr. Mitchell: Troglodytes?

Mr. Renwick: Our amendment, to refresh your memory, was to amend clause 1(a) of the bill to read, "'Commission' means the Fair Prices Commission."

I believe you understand our position with respect to the title of the board as it is indicated in the bill. We believe it is a misrepresentation. We believe there is no way in which any member of the public would understand from the title or the board or from the short title of the act, that this bill's main purpose is to restrain compensation in the public sector of Ontario.

Most people would assume--I made this point last week but purely by way of summary--that the Inflation Restraint Board has something to do with the general conditions of inflation in the economic life of the province with respect to prices of all kinds. But that is not what the government is planning in any sense at all.

There is a very limited form of monitoring--and I emphasize the term "monitoring"--of inflationary conditions in the economy of the province in so far as they relate to prices. In no way is it a restraint imposed on the inflationary prices as they have existed, and likely will exist, in the province.

That is one of our major points, and my colleague the member for Welland-Thorold (Mr. Swart) made it with respect to the failure of the title of the board to refer at all to the price concept. I ⁿ ⁿ definition of the board, as printed in the bill, does not refer all to the restraint of compensation in the public sector, so the public would have a very misleading sense of the influence of the bill.

We then went on to talk about the problems with prices. We indicated we were introducing this change in the definition at this early initial stage because when we come to part III, we will want to move all of the substantial amendments consequential upon the change in the title of the board to mean the Fair Prices Commission. When that is done, I think the committee is entitled to know the kinds of things we would be speaking about in order to give substance to the intent of our amendment at this time.

You all may well be aware that a week ago today the Premier (Mr. Davis) met with the leadership of the trade union movement, both in the public and private sectors, under the leadership of Mr. Clifford Pilkey, president of the Ontario Federation of Labour. They presented to the government a compressed, synoptic, intense, well thought-out, carefully prepared, five-point statement: Withdraw Bill 179; have an emergency program for job creation; provide income support; have selected price freezes and rollbacks; and provide a government-led industrial strategy.

To speak only to the one item which relates to the amendment now in front of us, the brief had this to say, very succinctly, on page 7: "Selected price freezes and rollbacks: The Ontario government's removal of collective bargaining rights from public sector workers was accompanied by a lot of fanfare about restraining prices."

I emphasize the word "fanfare". All of us who had Shakespearian plays at school will remember that at the end of act I, scene 2, there was always a fanfare of trumpets. That is the kind of connotation the president of the federation of labour was thinking about when he used the term "fanfare" in this area. You may also remember that every Saturday morning one section of the Globe and Mail is called Fanfare. I don't know the origin of the word--perhaps other members of the committee are more familiar with the derivation of that term--but I think it is an appropriate statement because that is exactly what it was.

The brief continues to say that the bill "was accompanied by a lot of fanfare about restraining prices, yet in the key areas where the provincial government could act, price controls were excluded or prices actually raised further. We feel every one in Ontario has the right to the basic necessities of life and that the Ontario government must help assure that right by freezing prices of necessities. As a start, we call upon the government to

(a) restrain energy costs by removing its ad valorem gasoline tax and freezing hydro and home-heating fuel prices;

(b) stop increases in public transit fares, legislate an end to extra billing by doctors and roll back the 17.4 per cent increase in medicare premiums;

(c) strengthen rent control administration and extend it to cover all tenants in Ontario;

(d) press the federal government to reintroduce the subsidy on bread and milk to lower the price of these commodities."

As you can see, that is a very compressed statement, but it gives me an opportunity to speak further, and I hope equally briefly and equally succinctly, to some of the questions we are trying to address when we propose this amendment at this very initial stage of the bill.

Perhaps I could speak first about our position with respect to the question of the extra billing by doctors. I can vouch for the information I will give you because it is prepared by the research staff of the New Democratic Party caucus on the question of extra billing. I believe it will be possible for me to locate amongst my papers the particular point I want to make on that question. Then we can get some sense of the kinds of dollars that we're speaking about when we speak to this question of ruling out the doctors' extra billing.

It is interesting that--unless it has escaped my attention--I have heard nothing further about the doctors' response to the meeting which took place with the Premier. Perhaps other members of the committee whose memories may be better than mine, will be able to recall whether there was any statement, but I don't recall any. Do you, Mr. Mackenzie? No.

That meeting was held was very shortly after the bill was introduced in the assembly. I don't know what further behind-the-scenes discussions have taken place on that particular question, but I can assure you that is a very significant factor in the program we shall be putting before the committee by our amendments when we reach part III of the bill.

5 p.m.

It certainly is quite unfortunate that I can't find the piece of paper that I wanted to about the cost to the province of doctors' extra billings. I have a comparison of doctors and hospital workers with respect to their average incomes and the change in their purchasing power, but I do not have with me the particular piece of paper I would like to draw to the attention of the committee. I know my colleagues will forgive me for not being better organized. I am having difficulty forgiving myself about it, but perhaps one of these times I shall be so well organized that it will not be a problem.

In any event, as I get to it, the figures are really quite startling. I would not want the committee to miss the information that I want to lay before them on that particular question of the doctors and their extra billings. This is in no way to be taken as trying to use up time. I am not attempting to do that. I am simply trying to find a piece of paper.

Mr. Chairman: We would never attribute those motives to you.

Mr. Renwick: I do appreciate your patience and I can sense that it is running out.

Mr. Piché: It has run out.

Mr. Renwick: I think it has run out.

I can put them on the record at some later and other occasion. They are very significant costs. The paper is right here. Isn't that fantastic, I found it.

I want to put on the record the costs of extra billing to the consumer, 1980-81. Total number of medical claims to the Ontario health insurance plan, 89.9 per cent of total claims--I am going to round the figures off--\$58 million; average cost per medical claim, \$20. Number of medical claims on opted-out basis, \$6.3 million, or about 10.9 per cent of the claims; the cost of the OHIP portion of opted-out claims, \$126 million; cost of extra-billing portion of opted-out claims based on Ontario Medical Association fee schedule, 43 per cent above that last item of \$126 million, making the figure \$54 million-odd.

That was based on the OHIP practitioner-care statistics for 1980-81. When we try to flesh out what we mean by this particular provision of the bill it is our intention to include in our amendment on that aspect of the fair prices provision the appropriate amendment to the Health Insurance Act, simply stating in substance that a physician or practitioner who submits an

account for insured services to the patient shall not bill the patient for an amount exceeding the amount payable by the plan for the insured services.

It is a very straightforward amendment, but it is an essential part of the kind of price restraint that we in this caucus would support, and a very essential part of the kind of position we have developed.

Some of you may have recalled that my colleague, Mr. Mackenzie, and my colleague, Mr. Cooke, together with Mr. Swart, the member for Welland-Thorold, and Mr. Philip, the member for Etobicoke, made a pretty full statement to a press conference with respect to the kinds of things with which we in our party would like to deal when we come to this particular question of the kinds of price restraint in which we are interested and that we want to support. That statement was in a press conference held by my colleagues on November 2.

I am now going to deal with the accurate, but perhaps forceful, statements my colleagues made with respect to the wage control part of the bill, but I wanted to move to what they had to say about controlling inflation. My colleagues Cooke, Mackenzie and Swart, speaking on November 2, affirmed: "We believe the best way to control inflation is to control prices and that the government's blame-the-victims approach should be rejected in its entirety. Accordingly, we intend to introduce amendments which will strengthen significantly the price side of the bill and which will delete the offensive sections of the wage side. On the price side, the present proposals amount to a justification for price increases, not a program of price protection."

I think that perhaps deserves to be restated because it is a very illuminating statement, the kind that would make for an excellent sermon in appropriate circumstances. One could spin out a lot of meaning from the clause my colleagues used on that occasion, that "On the price side the present proposals amount to a justification for price increases, not a program of price protection." That is exactly what the present bill provides.

We intend to move substantive amendments which would transform the government's Inflation Restraint Board into a fair prices commission. Any price increase, not just those prices the government has defined as administered prices, will be subject to review; that means OHIP premiums and rents, excluded by Tory fiat, will be covered. We will also introduce amendments that will ban extra billing by doctors. We propose an interim price freeze on gasoline, home heating fuels, OHIP, hydro, transit, and auto and property insurance until the the fair prices commission has had an opportunity to investigate these areas.

In addition we will be giving some consideration to the kind of reforms that may be required for the purpose of residential rents and rent control. However, between November 2 and the present that whole Cadillac Fairview transaction has intervened. We cannot give the other side of the coin because no one knows the name of the people on the other side, but Cadillac Fairview is on one side of the transaction and One, Two, Three, Four, Five, Six Ltd. on the other side, and Seven, Eight, Nine, 10, 11, 12, 13 and 14 Ltd. on the other side as well.

There is, of course, going to be some Conservative version of a moratorium with respect to rents introduced into the House. We have the Stuart Thom commission, which will be dealing with the matter. Then we have that rather limited review being made by Touche Ross about the whole nature of that transaction. So, in a sense, time and events have overcome the bill already with respect to the rental matters.

5:10 p.m.

It may well be that, in the interests of efficiency and so that we will not clutter up the work of this committee and delay its proceedings in any way, the appropriate place to deal with matters related to those questions of a moratorium, some kind of control over the existing rental situation and some reconsideration of the whole necessity and basis for the rent control program, is elsewhere. I had thought that the minister was going to introduce the bill today, but I suppose there are some last-minute problems and it may be introduced when we sit in the House on Thursday.

I think I have given you a reasonable part of the substance of what we want to talk about on part III in the bill, but perhaps we can briefly summarize the way in which we are going to go about it.

Basically, what we will do is to move provisions with respect to the price freeze about certain goods and services as quickly as we can: (a) motor vehicle fuel, (b) home heating fuel, (c) electrical power, (d) municipal or other public transit services, (e) motor vehicle insurance, and (f) property insurance. These will provide for a freeze for a time in order to give everyone an opportunity to take his breath and hold it until such time as the fair prices commission can get a handle on the problem.

We would also be proposing a rent freeze for a period that will again permit tenants to breathe easily for a little while and allow for some sense of a handle of the rent control system on the problems being faced by tenants to be put in place. There will also be a provision in the bill, if all goes well, to provide for rollbacks.

We will structure the commission somewhat along the lines of that of the Inflation Restraint Board in the present bill. We shall certainly not allow the principles of natural justice to be overridden in the way the bill provides, therefore the Statutory Powers Procedure Act and the hearing provisions will apply.

We will try to set out clearly definitions of administered prices. They will be defined to include prices, user charges, fees, premiums or rents, so that we are sure to pick up the OHIP premiums as well as rent charged by any public agency. We will also want to be certain that any amount payable by the Ontario health insurance plan for insured services--that is, the other side of the coin on the health insurance plan--will be covered as an administered price. But we want to extend it to give the fair

prices commission an opportunity to deal with prices in the broader context. We will therefore define price to mean any other price than an administered one. We will define price increase, public agency, public regulatory agency.

Probably the gut part of the provision of the bill will be those matters where the commission is obligated to investigate--a simple provision that where any person requires in writing that the commission investigate a price increase during a certain stated period, it will investigate and report on that price and shall determine whether the price increase is fair. That is the gut part of the bill.

We have then tried, with considerable care I believe, to see out in our proposals for the commission, the kinds of considerations which it should take into account in arriving at this conclusion about whether the price is fair, and that is the commission's prime obligation. There will be ample opportunity, when we move that amendment in due course, to talk about those criteria when we move that amendment. It is sufficient to say we have set out eight or 10 of them. There are probably others that could or should be added and we have provided that further criteria could be established from time to time. We have again followed, to some extent, the nature of the bill and included the various powers of the commission.

I believe that conveys to my colleagues on the committee on this Tuesday afternoon, November 23, at about 5:15 p.m., the kinds of matters and considerations we have in mind in moving this initial amendment to Bill 179 to make provision for the proper terminology.

As I close my remarks on this particular amendment, I want to contrast the accuracy and the clarity of our amendment and the purpose of our amendment when we want the board to mean the fair prices commission. That conveys to somebody that it is a commission, that it has to do with prices and it has to do with the fairness of it.

Any member of the public can understand what that's about as contrasted with the kind of misrepresentation inherent in the present term in the bill, the Inflation Restraint Board. It is a kind of a synoptic way of selecting those phrases from the long title of the bill guaranteed to maximize the degree of misrepresentation to the public. That's what it does. It maximizes the possibility and degree of misrepresentation.

If I had been asked to select two words out of the long title of the bill to describe the board which would maximize the misrepresentation to the informed public, to anybody who reads or is interested in the bill, those two words would be "inflation restraint".

The genius of this Madison Street advertising man with some smattering of legal background selected from the first part of the title the term "restraint," put it second in order even though it is first in the bill, then looked at the second part of the bill and picked out the word "inflationary." He said, "I'll shorten that a little bit and put it first." You get, therefore, the

Inflation Restraint Board, even though the bill itself is entitled An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province.

I don't know whether there is anything further which needs to be said on the amendment. If I've left anything unsaid, I assume one or other of my colleagues would pick it up, from the Conservative Party or from the Liberal Party or my own party. I sense with the attention the committee has given to my comments on this bill, there appears to be a general aura of acceptance of the proposition which I have put. It may well be that the amendment will pass. Perhaps just to clarify it, Mr. Elston or other members of our party may want to say a few words about it. I appreciate your attention, Mr. Chairman.

Mr. Jones: Mr. Chairman, perhaps the member could help me. We all have lot of further questions about the commission as Mr. Renwick envisages it. I just had one. Perhaps I missed it in his comments. I wanted to know the extent of time you saw the commission doing this work you were describing for us. How long would this commission be in existence?

Mr. Renwick: I'm glad you have given me an opportunity to speak again to this matter.

Mr. Jones: We don't need a long answer. One year? Five years?

Mr. Renwick: Let me just get my notes.

Mr. Jones: He has lost his piece of paper.

Mr. Renwick: I've found it. This is not etched in stone by any degree, but we were talking about--

The Acting Chairman: You don't have to answer, Mr. Renwick.

Mr. Renwick: I can. I always want to answer precisely the question which the parliamentary assistant asks. The bill provides that, "where any person requires in writing that the commission investigate a price increase that occurs or takes effect on or after September 21, 1982, and before January 1, 1984, the commission shall investigate," and so on. The period is there. I don't want to be tied in specifically to those dates because it may well be that by the time this bill comes into effect we will want to make that January 1986 or something like that.

It's a compressed period. It is not a great deal different from the period which is in the bill. We felt it made very good sense. We also had the sensation that if this kind of a commission were introduced, it may well be that by that time the public would be clamouring for it to be continued. It wouldn't be the first time that a commission had been set up on a relatively temporary basis and it turned into something permanent in time.

Indeed, I remember in the First World War that when we introduced the Income War Tax Act it was only for the purpose of the war. It continued as the Income War Tax Act until, I think, 1951 when the Parliament of Canada got around to changing it and dropping the word "war." Then it became as we know it now--or you younger fellows know it now--the Income Tax Act. It was related to the war. It was very temporary.

I hope I have answered your question, Mr. Jones. Any other questions?

Mr. Jones: No, that's fine.

The Acting Chairman: I am sure that's sufficient, Mr. Renwick.

Mr. Elston: My comments will be brief, Mr. Chairman, concerning the amendment. If we take a peek at the legislation and the manner in which it is drafted, we can agree to a certain extent with Mr. Renwick that the pricing portion of the bill requires some tightening up. We have already gone on record that we will be moving certain amendments to do that.

However, with respect to the amendment itself, it really is of no consequence what we call the board. I might also say that in terms of the types of things we hope to do with this bill, the amended name suggested by Mr. Renwick would at the same time also be misleading and would not adequately show the purposes for which we think this legislation ought to be drafted.

It seems to me that there needs to be a comprehensive program that is in line with the policy enunciated, not only by my leader several times in the House, but also as early as August. I think it can be accomplished under the name Inflation Restraint Board just as well as it could under another board or body named a commission. If we were going to describe it as a commission, we couldn't describe it solely as a fair prices commission and still hope to deal with all of the problems which face our economy at present.

It might have been a much better idea had the New Democratic Party member for Riverdale suggested that we call it the fair prices and incomes commission or something along that line, something that would be comprehensive and/or would coincide somewhat closer with some observations made by the honourable member--he is from Kamloops--Nelson Riis in the federal House when he was developing some of his own musings for consideration by the federal NDP.

I think that as a result of those few comments you can determine that the change suggested would not accommodate the types of programs we in this party hope to develop through this legislation. It wouldn't indicate to the public that we were dealing with the whole problem the way we think it ought to be dealt with. Therefore, we cannot support it.

At the same time, with respect to the Inflation Restraint Board as it is now constituted, it does not develop the type of public respect which a board of this type ought to have. I also have to say it can be better developed and structured through the amendments we are proposing, which would give it some of the characteristics of a board relying upon the principles of natural justices, which we believe it really should.

In the long run, the Inflation Restraint Board as it is now set out in the act under clause 1(a) will do rather nicely as a name. As that is our position, we will not be supporting the proposed amendment which is designed to do solely the types of things Mr. Renwick has advanced to us today.

The Acting Chairman: Thank you for those succinct comments.

Mr. Mackenzie: Mr. Chairman, after having a fair little alliance over at least some procedural motions, which were also important to try to get various ministers before us, I am sad to see the alliance going down the drain so fast with Mr. Elston and the Liberals. I must confess to being a little bit amazed that the Liberals can't find anything wrong in particular with the name.

Interjection: Or the bill.

Mr. Mackenzie: I moved the amendment and said only two or three things about it. My colleague from Riverdale has since stated that it was misleading to say the least. My comments were a lot stronger than that and remain stronger. As far as I am concerned, it is dishonest at best.

How can you call it an Inflation Restraint Board? Where is the evidence? What is it going to do in terms of inflation restraint? The heart and guts of this bill are the controls on wages. We have made no bones about the fact that that's the section of the bill we think is wrong. We don't intend to have anything to do with supporting it and we intend to make major changes in terms of the price side of it. That's a legitimate argument. I'm going to do that it makes a heck of a lot more sense to call the commission that's being set up, as we have suggested, the fair prices commission.

Whether that name is bought or not, I still have difficulty with the Inflation Restraint Board. I really can't understand why the members would want to go into the House with a piece of legislation that is as misleading as that name is. I couldn't help thinking, when we were talking about inflation restraint, that's the gist of what we are doing with the controls here on workers' wages. There are two paragraphs here on one page and one and a half on another page in an article that deals with this question of inflation restraint, what causes it and how we deal with it.

One argument that is being made in an article here says, "I am tired of being told that Canadians are helpless to do anything about our current economic plight. Almost every time I pick up a newspaper, turn on a television set or stay within range of an

after-dinner speaker I am informed with crisp authority that inflation is the underlying cause of all of our problems and that little can be done about it.

"I believe this line is fast becoming a complete put-on. Inflation is not the underlying cause of our ills. It is only the symptom, the result of deeper-rooted problems that we refuse to face up to. The notion that we are helpless to act stems from the belief that our inflation is caused by the recent tremendous increases in the cost of Mid-East oil. Anyone can see that the rise in oil prices has had an inflationary impact. But anyone with a memory that goes back more than 18 months will recall that we were already in the grip of inflation long before the oil-exporting nations made their move."

5:30 p.m.

"That gives some lie to what we are talking about right now, but probably even more so"--and this was right before the Anti-Inflation Board came in, which was a board similar to though not nearly as tough as what we are dealing with here in this restraint bill--"we were told that successive increases in the bank rate through 1973-74 were designed to discourage borrowing, contain expansion and reduce inflationary pressures.

"Of course, that's not what happened. As individuals we went right on buying on credit, only we paid more for it. At the same time, our corporations borrowed even more and passed on the extra costs by raising their prices and writing off their interest charges in calculating the income tax. Instead of causing inflationary pressure the high cost of money added to them.

"The only areas where increased interest rates brought an immediate drop in activity were two in which we simply cannot afford a cutback: the cost of mortgage loans went sky high and put the breaks on residential construction. High interest rates were effectively responsible for depressing stock prices, ruining our capital markets and pushing our investment industry into a costly and unnecessary depression." And what was the number one recommendation?

Mr. Piché: A point of order, Mr. Chairman.

The Acting Chairman (Mr. Eves): Point of order, Mr. Piché.

Mr. Piché: Mr. Mackenzie is reading and he is not talking on the amendment at all.

Mr. Mackenzie: Yes, I certainly am. I am talking on inflation restraint.

Mr. Piché: He is addressing everything but the amendment.

The Acting Chairman: Mr. Piché, in my opinion, Mr. Mackenzie's comments are related to the amendment before us.

Mr. Mackenzie: What was the first and prime recommendation by the author of the paragraphs I just read to you? "Reduce interest rates and keep them down by monetary policy, such as financing some of our major resource development projects internally by tax legislation and, if necessary, by exchange controls."

I don't know if any of you are interested or not, but those particular comments came from--let me see if I can give you his name--Debunking the Prophets of Doom, by J. L. Biddell, the very guy we're going to put in charge of this so-called Inflation Restraint Board.

I really wonder at the thinking of the people over there who have brought this in and have the gall, the nerve, to set up a board that they call the Inflation Restraint Board. How can you go in with a piece of legislation and with an inflation restraint--

Mr. Jones: What date was that?

Mr. Mackenzie: You tell us what you're doing.

Mr. Jones: In what context was he speaking then?

Mr. Mackenzie: I gave you full paragraphs where I gave them to you.

Mr. Jones: I didn't catch the date.

Mr. Mackenzie: Well, take a look at his article, We Can Revitalize the Economy; Here's How, in Macleans, 1975.

Mr. Jones: In 1975. We're now talking about provincial legislation--

Mr. Mackenzie: We were dealing with the same argument. Now hang on for a second. We were into the same kind of a discussion over the AIB; that's what you forget, Mr. Jones.

The Acting Chairman: Mr. Mackenzie has the floor, Mr. Jones.

Mr. Mackenzie: If you want me to read the entire article I would be pleased to put it on record.

The Acting Chairman: That's not necessary.

Mr. Mackenzie: It's only about four and a half pages.

Mr. Piché: I'd like to hear it. Go ahead.

The Acting Chairman: Mr. Piché, I don't think that would be in order, with all due respect.

Mr. Mackenzie: I wouldn't mind doing it. I don't want to be sucked into Tory delaying tactics, and that's what Mr. Piché is trying to do, delay us on this bill.

Mr. Piché: Mr. Chairman, I take great issue with that statement. I'm not saying anything but the odd word once in a while and he's accusing me of delaying tactics.

Mr. Mackenzie: Well, it's not that long and I offered to read it in, but everybody else seemed to say no. Then you have to assume that--although it might be a good idea, Mr. Chairman, because it give Mr. Piché a bit of a lesson, because there are things--

The Acting Chairman: Mr. Mackenzie, please don't try to incite Mr. Piché.

Mr. Mackenzie: --that I totally disagree with in that article, but it's a rather good article by Mr. Biddell, I have to tell you.

Mr. Piché: A photocopy will do.

Mr. Mackenzie: On the fair prices commission, the only other comment I had, and I will only take another minute, Mr. Chairman, is simply that we set out in press release, and that's what I actually was going to do before my colleague took a little bit of advantage of me and read it on me, the fact that our interest in this bill at this point in time is trying to amend the section that deals with the price restraint.

We feel that that in itself, a fair prices commission, could have a lot more to do with dealing with the kind of troubles we've got in our economy than anything else you've got in this bill, the first part of which in effect pulls several hundred million dollars of purchasing power out of the hands of ordinary people, and particularly low-income people, who are a good percentage of the public servants getting hit by this bill.

We're flexible, we would look at a slightly different name if someone had one. The fair prices commission adequately heads up the kind of amendments that we intend to move, as a party, in the course of the debate on the later sections of this particular bill. It is important that that point be made, and that is why we make the move--for that reason, plus the fact that it is dishonest to call what we are creating an Inflation Restraint Board because it has nothing to do with restraining inflation in terms of the kind of legislation we have before us in this bill.

Mr. Martel: I'm delighted to see the minister here.

Mr. Jones: The minister will be along shortly.

Mr. Martel: Right. I recall the debate last week; we were going to have ministers galore here during this clause by clause and I am absolutely delighted we got a minister here. I'm having difficulty locating him, mind you, but I understand he is here somewhere.

Mr. Jones: Mr. Chairman, Mr. Martel's comments are totally uncalled for. The minister has been attentive to this bill's passage through the House, as you all know. He has been attentive and put up with all the nonsense we have had in this committee since he has been here.

Mr. Mackenzie: Just a moment, Mr. Chairman.

Mr. Jones: He certainly was attentive during the serious part of these deliberations where we did have people coming before the committee and making their presentations. He has been in attendance since then and he will continue to be.

He made the comment to you at the very outset that he or his parliamentary assistant would be in attendance. There are people from Treasury attending with you through this clause by clause and, as you know, he did make further comments and he will continue to be attending in the committee.

Mr. Mackenzie: On a point of order, Mr. Chairman: I think it is a legitimate point of order to ask the parliamentary assistant, if he is going to accuse members in this committee of nonsense, to then outline and identify the members and the particular issues that he calls nonsense.

Mr. Jones: We certainly had nonsense in the form of intemperate language.

The Acting Chairman: I really think it would be a lot better--

Interjections.

The Acting Chairman: Mr. Mackenzie and Mr. Jones, you are both out of order. There is no point of order.

Interjections.

The Acting Chairman: Mr. Piché, Mr. Martel, now see what you've done.

Mr. Piché: I didn't want to do that.

The Acting Chairman: Would you mind proceeding with your comments on the amendment, Mr. Martel?

Mr. Piché: Mr. Martel is an agent provocateur.

Mr. Martel: I only make the point that, having been in on four or five occasions during the procedural motions, we were told that--

Mr. Jones: We sat last Thursday and the minister was here, Mr. Martel.

The Acting Chairman: Mr. Jones, please try to restrain yourself.

Mr. Martel: Mr. Jones, let me just enlighten you for a moment. We were told that we didn't need to move those motions, the ministers would be here for the clause-by-clause study. We are on the first amendment and the minister is absent. We're on the first line of the bill.

Mr. Jones: When this amendment was put the minister was here, on Thursday afternoon.

Mr. Martel: I have been here for almost an hour and he hasn't been here. I just make the point. Obviously, he doesn't want to listen to the debate on the reason we're moving this. Obviously, he has sent his PA in with instructions not to accept any amendments--

Interjection.

The Acting Chairman: Mr. Martel, with all due respect, you have made your point and perhaps you could progress with your comments on the amendment before us.

Mr. Martel: Before I was so rudely interrupted. But I won't give you a difficult time.

The Acting Chairman: You don't want to be unfair in your comments on the minister, do you?

Mr. Martel: You can fight with the parliamentary assistant. I don't want to disrupt this meeting, but again it's a Tory whose delaying tactics are slowing down the passage of the bill.

I want to pick up what my colleague said. If we were dealing with this aspect of the bill, this hunk of junk called the Inflation Restraint Board--I find it's difficult. I think it's a misnomer for a number of reasons.

5:40 p.m.

First of all, to every question that has been raised with respect to what this board is going to do, we get the frivolous reply, "You know we allowed Hydro to go to eight and a half per cent; we have to pass through." What's the restraint if you're allowed to pass through all the costs that Hydro incurs? I remind you that the workers whose wages are being frozen can't pass anything through, that's impossible. But it's okay for Ontario Hydro. Then we have the audacity to say that we have an Inflation Restraint Board.

One could go to OHIP. I listened to the minister's arguments in the House during question period. He said those agreements were signed beforehand. The change, the 17 per cent, I think, really kicked in about October 1. What was the restraint board's response or the minister's response? "Those agreements were signed beforehand." I remind you, so were the contracts of the workers signed before the legislation was introduced. Where is the restraint in government spending?

The government is going to make the argument that it has to pass these things through because they are costs they can't ignore. I say to my friends that the same applies to working people. There are costs, if one just looks at mortgages, that are changing, where people who are coming off 10.25 per cent are going to 16 per cent. They can't pass that through and it is none of their doing; they can't alter it. What is the Inflation Restraint Board going to do? Absolutely nothing.

It doesn't even get at the problems that are really causing some of the inflation. These have been mentioned: gas, interest rates and government spending. I, for one, would like to know how the act intends to cope with any of those. It does not, because when you raise the question of gas, the minister says, "That's determined by a federal act and an agreement with Alberta and we have to pass it through."

I have listened to Tory after Tory and the Liberals support that concept, but the workers can't pass costs through. The mortgage rate that was established has nothing to do with the workers, but they can't pass it through. I find the whole thing contradictory, to say the least.

What we are suggesting, and what my colleague, the member for Riverdale (Mr. Renwick) outlined--and I couldn't help but chuckle when the Liberals told us they weren't going to support it, because what my colleague very carefully attempted to do was to indicate that this was merely the beginning of a series of amendments which it is hoped would lead to doing something about inflation. They chose to not hear that of course. In fact, the member for Huron-Bruce (Mr. Elston) said that maybe it was--and I want to quote him--"fair prices and wages," or something like that.

Mr. Elston: You are certainly not quoting me; you don't listen.

Mr. Martel: I listened carefully; you said you were going to call it maybe a fair wages and prices--or something to that effect.

Mr. Elston: No, I didn't say that at all; you didn't listen. You just don't want to listen to anything.

Mr. Martel: I simply asked my friend--

Mr. Elston: That's too simple. You want to make the observations that you feel are on point but you don't listen to what other people have to say. I think you really ought to do that.

The Acting Chairman: Mr. Elston, please allow Mr. Martel to proceed.

Mr. Elston: If he wants to quote someone, then he ought to quote him.

Mr. Martel: I wrote down that you called it a fair prices and wages board.

Mr. Elston: That's not what I said.

Mr. Martel: What did you say?

The Acting Chairman: Perhaps you could clarify the record, Mr. Elston. What did you say?

Mr. Elston: I said fair prices and incomes.

Mr. Martel: Fair prices and incomes, pardon me.

Mr. Elston: Pardon you, right.

Mr. Martel: Where is the income being debated in this? It is a freeze on contracts--

Mr. Elston: As you will recall, Mr. Martel, from listening closely to what we were talking about, I suggested that there were a number of amendments which we were proposing which would fit well into the naming of this particular bill.

I realize that you don't wish to listen, I don't think you ever have really listened to what was being said in our rather brief comments. If you pretend to go on quoting, then you really ought to take a look at what you are saying before you put it on the record. I would thank you to be much more accurate.

Mr. Martel: I, for one, have difficulty grappling with what is fair in the income section because you are negating contracts which are in existence, some of which were signed, as I understand, recently in negotiations between a board and a group of teachers. I think they got 13 per cent because the board and the teachers felt that that was a fair saw-off, but the government sees fit to intervene and say, "It does not matter what you have negotiated, we have determined." What is fair about that?

You can call it what you want, it is just another way to support the Tories, and you know it. As I listened to your leader, he wanted to extend it for several years more if possible.

Mr. Elston: I am going to have to start making more comments to straighten this character out if he is not careful.

Mr. Martel: Go ahead, straighten me out.

The Acting Chairman: Mr. Elston, please try to contain yourself.

Mr. Elston: I am well contained.

Mr. Jones: Even government has some amendments we would like to get on with and discuss, such as to make it more fair.

Mr. Martel: You cannot make a hunk of junk fair. You are not prepared to get serious even in the prices sector, which we are talking about.

Mr. Jones: You people started with the original premise and you never let it go. You are not here to amend it to make it more fair or anything else; you are here to see the bill gone.

Mr. Martel: No. We are trying to make the bill fair and you are going to ignore it because you do not want to deal seriously with those things the government has some control over in the price side of our economy. As I said, you are not going to deal with interest rates, you are not going to deal with gas, you are not going to deal with government spending.

Mr. Jones: Mr. Mackenzie was just inferring that interest rates were a basic problem in inflation and that is not in our jurisdiction.

The Acting Chairman: Mr. Martel has the floor and you know how he is, Mr. Jones. Please allow him to continue.

Mr. Piché: I think Mr. Jones was speaking well and I would like him to continue with what he was saying. It makes a lot more sense than what--

Mr. O'Neil: I would too.

The Acting Chairman: If you would like to speak, Mr. Piché, we will take your name and put you on the list. Mr. Martel, you do have the floor, believe it or not.

Mr. Martel: It is hard to realize I have the floor. Aside from gas prices and interest rates, you cannot deal with the problem in Ontario because interest rate policies are not made in this country. Some of you should realize that. The game we play is follow the United States, and then jack it up two or three per cent more so that we do not have capital outflow, if you can get your bucks a little higher and your interest rates a little higher in the United States.

If some of you watched the interest rate last week, it jolted upwards for the first time--not enough to change the interest rates by the banks. It went up last week, I think, 0.8 per cent. If it is turned around at all and continues to go in that direction, your bill will not do hoot-all because interest rates are established for us in the United States. That is one of the fallacies in your bill.

Mr. Jones: We never claimed that this was a single silver bullet for inflation or all the problems of the economy. We said it was an important component of the things the government was doing. Just as you were making criticism of the fact that the Treasurer was not here today, the time he has not been here he has been addressing to job creation and other programs that we felt were important in getting the economy going ahead again.

The Acting Chairman: Mr. Jones, would you try to not interject and allow Mr. Martel to proceed?

Mr. Martel: Mr. Chairman, let me say that in my years here I have sat on three different committees dealing with the economy of this province. We have not accepted nor enacted any of the recommendations of any of those three committees. Whether it be the select committee on economic and cultural nationalism, which spent millions of dollars, put out 21 reports, you have not acted on any of them. If you are going to deal with jobs, you are going to have to deal with that report, and you have not, because to create jobs in this society, you are going to have to rely less on resource extraction and more on manufacturing. After 21 reports and four-and-a-half years of study, that is what the select committee concluded.

5:50 p.m.

I remind you, Mr. Chairman, that seven of those members who sat on that select committee were Tories. They agreed to those reports and indicated that is how to turn it around in terms of jobs. If you want to talk about the second select committee, it never did report, but it dealt with jobs exclusively and was called the plant shutdown committee. If you want to deal with jobs and you say your minister is out dealing with jobs, then I suggest you might introduce some of the legislation that exists in Europe and other places where the plants cannot simply snut their doors and go home, willy-nilly.

That is certainly part of the problem when one deals with jobs, which we are devoid of or lacking in. Again, the government has not been prepared to do it.

Mr. Jones: You people do not agree with what he does. You are in here criticizing what he did for small business in the last budget; last week you were hammering away at it.

Mr. Martel: It does not deal with the issue.

Mr. Jones: This just happens to create 50 per cent of all the new jobs in the province.

Mr. Martel: For your own edification--

The Acting Chairman: Mr. Martel, if you wish to engage in a debate, perhaps you could do so outside the committee room.

Mr. Martel:--I invite you to go back this evening and read the 21 reports of the select committee on economic and cultural nationalism. This goes back to 1971 to 1975. They suggested very strongly that you had to rely less on exports of resources and more on manufacturing those resources here if you ever want to turn the economy around.

You Tories have never believed that you were the beneficiaries of location and nothing else in terms of planning. You have never planned a bloody thing, only we were able to sell off resources like mad and have jobs.

The Acting Chairman: Mr. Martel, would you like to put your comments to the motion before us?

Mr. Martel: I am.

The Acting Chairman: with all due respect, I do not think you are.

Mr. Martel: If you want to turn it around so that you have the ability to deal internally with your own problems, you cannot do it in a superficial fashion. I recommend to you a book by Professor Britton called The Weakest Link, which was only published about a year and a half ago. It spells out rather clearly that which I am trying to drive home to you Tories. You cannot alter the situation as long as we are reliant on American capital for everything. The interest rates start there. Our whole trade is tied up in it and our whole development of an economy that is self-reliant. Until you are prepared to deal with that problem seriously, we are not going anywhere except to hell in a hay wagon.

Mr. Jones: What sort of an effect would you have on the economy with the proposals Mr. Renwick is putting with your controlled price commission?

Mr. Mackenzie: You do not think that makes some sense? If we had that for six months, it might make up for all of the other loopholes you are talking about.

Mr. Jones: You know how impractical it is.

Mr. Mackenzie: You have never tried it. You do not know. You have tried it the other way all of the time.

Mr. Jones: We live in a free market.

Mr. Mackenzie: Free market, hell. You know we do not have a free market.

Mr. Jones: We live in a free market.

Mr. Mackenzie: Show me the free market. You have got controlled prices.

Mr. Jones: We are here to discuss a provincial bill.

Mr. Mackenzie: Show me the free market.

The Acting Chairman: Mr. Jones and Mr. Mackenzie, you are both out of order. Please proceed, Mr. Martel, with the motion before us and try to restrict your comments to that motion.

Mr. Martel: I am trying to bring it together, but your colleague keeps intervening. It is difficult for me to go back and pick up the pieces and bring the threads together. If he will just restrain himself, I will listen to his response after.

The Acting Chairman: This is a time of restraint.

Mr. Martel: Obviously of wages, but nothing else, of wages, but not government spending or government prices.

I go back to the other study on the economy, that was the plant layoffs at Inco and Falconbridge, the committee on which a couple of you happened to serve. Again, none of the recommendations was adopted. The city of Sudbury today is devastated with 40 per cent unemployment. Do you think this stupid bill is doing anything for the people of Sudbury? We have tried in three emergency debates to talk about the Sudbury situation, but the government has not responded to one item since those layoffs occurred last July--not a bloody thing.

Wage restraint is going to do something for the economy in the Sudbury area? It is going to create jobs? It is going to save jobs? Tell me about the 85 children in the separate school system last month who left the area. You are going to find three teachers missing. Tell me about your wage restraint package and how it is going to save jobs in the Sudbury district.

Mr. Mackenzie: If the Treasurer were here he could tell us.

Mr. Martel: Yes, if the Treasurer were here he might tell me what he intends to do with respect to Sudbury to save those jobs of people in the public sector and the teachers.

I say it is a misnomer to call this board the Inflation Restraint Board when it cannot even deal with the problems that are creating inflation, namely, prices, interest rates, gasoline. It does not deal with any of those. The bill does not even deal with them. Even if it did, you have to be prepared to deal with the economy in a serious way, and the Tories have not.

There is an interesting document out from the chamber of commerce. They are not known to be my friends in Sudbury. It is called Profile and Failure, with respect to the northeastern Ontario regional strategy. They said they should take that document and dump it in a receptacle because the southern establishment was devoid of any knowledge at all of what the problems of northern Ontario are. They said the best place for that report, and it was the 15th in a row, would be in a receptacle somewhere to gather dust.

The bill cannot deal with it. An inflation board cannot deal with it. The problem for the Tories is that we are next to the Americans and in the heartland of the American industrial sector. As that goes, so goes Ontario. When that collapses, so too does Ontario. You do not want to deal with it. To deal with it properly, you would have to readjust the weaknesses in our own economy, which you are not prepared to do. You bring in your silly little bill, but besides freezing wages, you are not going to do a thing.

I find it really depressing that we think to freeze a few wages is going to resolve any problem. If the American interest rate, which turned around last week for the first time, goes up at all, your bill will be a mockery. I recall I interjected when the Premier was winding up on second reading. I said, "Bill, you want to hope that Reagan does not win the election in the United States where he can control both the Senate and the House because he is going to go back to high interest rates."

The Premier said, "You are too much of a pessimist." I am a pessimist. What I say is that if the Americans drive it up, our bill will not do anything. That is what is wrong. That is the fallacy of the bill. As the economy in the United States goes, so, too will it here. If it does not pick up in the United States, it will not pick up here. If the Americans jack up interest rates, interest rates will go up here and you will have more unemployment.

Mr. Jones: You keep pretending that we are pretending that this is a single silver bullet for the economy. That is not true.

Mr. Martel: I would like to know what the hell else you have going for you.

Mr. Jones: It is a particular phase. It has been explained to you by the Premier and by the Treasurer in the debate you just alluded to. They have set about and have been doing so since the last budget in programs as recently as yesterday--

The Acting Chairman: Gentlemen, it being six o'clock, I think that would be a good point to end on.

Mr. Martel: Could I just finish.

The Acting Chairman: One sentence, Mr. Martel.

Mr. Martel: Unemployment continues to escalate every day, despite all you are saying.

Mr. Mackenzie: Yes, 900 jobs a day right in Ontario.

Mr. Martel: It continues to escalate, and your budget has not turned it around one jot.

The Acting Chairman: We stand adjourned until eight o'clock.

The committee recessed at 6 p.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

INFLATION RESTRAINT ACT

TUESDAY, NOVEMBER 23, 1982

Evening sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Cooke, D. S. (Windsor-Riverside NDP)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mackenzie, R. W. (Hamilton East NDP)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Stevenson, K. R. (Durham-York PC)
Watson, A. N. (Chatham-Kent PC)
Wrye, W. M. (Windsor-Sandwich L)

Substitutions:

Barlow, W. W. (Cambridge PC) for Mr. Brandt
Conway, S. G. (Renfrew North L) for Mr. Breithaupt
Laughren, F. (Nickel Belt NDP) for Mr. Cooke
Ruston, R. F. (Essex North L) for Mr. Wrye

Also taking part:

Foulds, J. F. (Port Arthur NDP)
Johnston, R. F. (Scarborough West NDP)
Jones, T., Parliamentary Assistant to the Treasurer of Ontario and
Minister of Economics (Mississauga North PC)
Martel, E. W. (Sudbury East NDP)
Renwick, J. A. (Riverdale NDP)

Clerk: Arnott, D.

From the Ministry of Treasury and Economics:

Sadlier-Brown, P., Senior Economic Adviser, Economic Policy Branch

From the Ministry of the Attorney General:

Fader, J. A., Deputy Senior Legislative Counsel

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday, November 23, 1982

The committee resumed at 8:08 p.m. in room 151.

INFLATION RESTRAINT ACT
(continued)

Resuming consideration of Bill 179, An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province.

Mr. Chairman: I see a quorum, so I shall call the meeting to order. Shall we carry the vote with regard to clause 1(a)? Shall 1(a) carry?

Mr. Mackenzie: No, not carried.

Mr. Chairman: Shall we have a vote? All those in favour--

Mr. Mackenzie: Hold on, Mr. Chairman, we're entitled to 20 minutes.

Mr. Chairman: You must ask for it.

Mr. Mackenzie: I'm asking for it, Mr. Chairman.

Mr. Piché: It is on record that there is a filibuster on and we will deal with that situation in exactly 19 minutes.

Mr. Chairman: Twenty minutes, until 8:28 p.m.

The committee recessed at 8:08 p.m.

8:28 p.m.

Mr. Chairman: I presume you wish to have a recorded vote as usual. We are voting on Mr. Mackenzie's motion to amend clause 1(a). Reply to the clerk when he calls your name.

The committee divided on Mr. Mackenzie's motion, which was negatived on the following vote:

Ayes

Laughren, Mackenzie.

Nays

Barlow, Conway, Elston, Eves, Mitchell, Piché, Ruston, Stevenson, Watson.

Ayes two; nays nine.

Mr. Chairman: Mr. Mackenzie's motion fails nine to two. Therefore, shall we vote on the original clause 1(a)?

Mr. Mackenzie moves that section 1 of the bill be amended by striking out clause 1(a).

Do you have copies to circulate, or is this the only one?

Mr. Barlow: On a point of order, Mr. Chairman: My understanding was--according to the rules of the House as supported by Beauchesne's Parliamentary Rules and Forms--a motion to delete is not in order.

Mr. Chairman: That is correct, except that I am reading a memorandum to all assistant clerks, both table and committee, dated November 2, 1982, from Roderick Lewis which in its last paragraph states: "A motion may, of course, be made for the amendment of the section by striking out a subsection. That motion is quite in order."

Mr. Mackenzie: We checked that and our information is it is quite in order.

Mr. Chairman: Yes. I believe Mr. Renwick had consulted with the clerk. Carry on, Mr. Mackenzie. Please address the merits of your amendment.

Mr. Mackenzie: It is very simple. I felt very strongly when I moved the amendment to change it to the prices review commission, that the name was a misnomer. It was--as my colleague, the member for Riverdale (Mr. Renwick) called it misleading, I call it downright dishonest, because it is simply not an Inflation Restraint Board.

I fully recognize that the chairman doesn't want to go through all of the same arguments again, but I think it is inappropriate for the government to proceed with a bill that has the name Inflation Restraint Board when there is nothing in the bill that will answer the question or the problem of inflation in Ontario. I think it's a totally dishonest name and I think it should be struck out and should not be part of this particular bill.

I can't see any valid reason to continue a bill with this particular name in it. It really is farcical. There is no possible reason to continue this section of the bill, calling it the Inflation Restraint Board, when it doesn't cover that area. That's not what the bill is all about, there's just no question about that. The bill is all about, it is clear, the control of workers' wages. I

Mr. Laughren: Mr. Chairman, I am glad the undersecretary for the Ministry of Treasury and Economics is here again to hear the arguments.

Mr. Conway: He looks very ministerial to me.

Mr. Laughren: Undersecretary is what his friend, Ronnie Reagan, calls him.

Mr. Jones: This is the same speech, not only in your opening comments, but the same thing we have just heard on the last one. This is a little redundant.

Mr. Conway: Does he ever show us the picture of you and the President of the United States?

Mr. Mackenzie: How could he? He hasn't talked about this before.

Mr. Laughren: I have always referred to the parliamentary assistant as the undersecretary because of his political leanings and his perpetual liaison.

Mr. Chairman: Would you please restrict your comments to the motion at hand, Mr. Laughren?

Mr. Conway: Does he have a tax cut program?

Mr. Laughren: If you can control the other members of the committee, I would like to get on with the debate, Mr. Chairman.

Mr. Chairman: They are waiting for your very intelligent comments.

Mr. Laughren: Thank you. The reason we want to change this first section is because we do not want to be part of any piece of legislation in Ontario whose opening clause is as misleading as this one is. Perhaps you can feel comfortable, but we don't. We do not think it is proper to start out a bill by saying it has something to do with inflation restraint, namely, that, "'Board' means the Inflation Restraint Board."

If the parliamentary assistant or the government members would take a few moments here this evening, right now, and tell us why this should be called the Inflation Restraint Board, if they would explain to us how this will achieve a reduction in the rate of inflation, then perhaps we wouldn't have to go through the agony of debating this particular amendment.

Mr. Piché: It's filibustering.

Mr. Laughren: No, it's not a filibuster. The member for Cochrane North does not recognize the difference between a filibuster and a prolonged debate.

Mr. Piché: A prolonged debate is repeating yourselves, saying the same thing, when we are here to try to do a job.

Mr. Laughren: I agree.

Interjections.

Mr. Laughren: I want to tell you people something.

Mr. Watson: People tell me they don't like it, but get it through fast, because they won't get their retroactive pay until they do. I hear it every day.

Mr. Laughren: Let me tell you something and maybe it will put it into perspective for you. I h government--try to live with that just for a moment

Mr. Stevenson: I can't possibly picture that.

Mr. Laughren: Let me live out my fantasies for about two minutes.

Mr. Jones: Mr. Laughren, you were inviting myself or any of the members to make some comment. When would that be that you would--

Mr. Laughren: If you are finished, I would be very pleased.

Mr. Watson: I think he's finished; we had better have some comments.

Mr. Laughren: If we were the government and we were to bring in a bill that said from this moment all of the nonrenewable natural resources of Ontario will belong to the crown, you people--I am serious about this--would be so angry with what you regard as an assault on private property and on the rights of the individual to hold property, and what you view as your system, that you would dig in your heels so deeply that nothing could move you. You know that. You know that that's not an unfair argument for me to make, that if we were to do something like that, that was so alien to what you believed in, you would dig in at least as deeply as we've dug in. You know that.

What we're saying to you is that's how we feel about this piece of legislation.

You're telling us that it's wrong that we're filibustering, because we are digging in deeply on something about which we feel very strongly. I think that that's unfair of you to do that. I can understand why you're frustrated, but wouldn't you be as angry if the roles were reversed in the example that I used?

I think you would be able to justify to your friends out there, day and night, that what you were doing was in the best interests of the system. Even though it prolonged debate, and even though the government, if we were the government, were accusing you of filibustering, you would say: "Let them accuse us, look at what we're protecting. Look at what we're trying to protect." That's what you would say.

All we are saying to you is that by debating this bill as fiercely as we know how, we are trying to protect something in which we believe and in which we believe very strongly, and in which our friends believe.

I think that it's very simplistic on your part, members of the government caucus in particular, to just write it off as filibustering by the NDP. It's not proper that you should do that. I can't stop you, but I really believe that you're underestimating the depth of our feeling on this particular piece of legislation.

For you to expect anything else from us doesn't make sense. You must have known, when this bill was debated in your caucus--I know you weren't given any details--you surely knew that we would find the principles of this bill very, very offensive. You must have known that you were going to be in for the battle of your lives in the Legislature and that we would use every means at our disposal to make sure that you didn't pass this bill easily and that we would do everything we could to defeat the bill.

Mr. Mackenzie: We hope it doesn't pass; you may come to your senses.

Mr. Laughren: That's what we hoped, right from the beginning and nothing has changed.

I know your sense of frustration because you don't believe, as we do, that you're trampling on certain rights here that you shouldn't trample on. You believe that you may be trampling on some rights, but for the overall benefit of society you're going to do that.

I want to tell you that it is an extremely dangerous argument to make because trampling on somebody's rights can be used to justify a lot of things in our society. It has been done in other societies; I needn't go into in detail now, but you know.

For you to not understand that and not appreciate how strongly we feel on it I think is an indication of either one of two things: you underestimated us in the way we feel committed to collective bargaining and to the honouring of contracts. I suspect that you underestimated our feelings about your obligations to honour contracts. I suspect you believed that we would be angry about the collective bargaining argument, "But the contract thing, they won't be worried about that." I can just imagine the discussion.

Well, we are angry about that too, because we were taught that you have to honour contracts and now you're debriefing us. You are debriefing society and telling society: "Don't worry about contracts, don't be silly. If you signed a contract, big deal. It's not in the best interests of society that we honour that contract." That's what you're saying. I'm waiting for people to argue that it's not in their personal best interests to honour their own personal contracts and therefore they don't have to.

I guess the part that makes it the hardest to accept is that no one has told us how this is going to restrain inflation. We don't know you get away with calling this an Inflation Restraint Board. Why didn't you call it the arbitrary powers board and be done with it? Why give it a name? It's like putting sugar around a pill.

8:40 p.m.

You call it an Inflation Restraint Board and you give the impression out there that this board is going to restrain inflation. Well, people aren't so naive that they are going to swallow that pill. It's a placebo.

We would like to hear how this is going to accomplish anything. I'm glad to hear that the parliamentary assistance intends to inject himself into the debate and explain to us how this board is going to restrain inflation. I look forward to hearing those arguments, now or very shortly. Because I'll tell you, those arguments have not been made.

I would have preferred, of course, that we could have had the various ministers before us to explain how it affected their particular jurisdictions in terms of inflation restraint, but you know the Conservative members have refused to extend that right to us.

I hope, Mr. Chairman, that you don't think that we should accept clause 1(a) just the way it's written, because it's written. I hope you don't believe that you could call it anything, and that we should believe it, and that we should accept it as being appropriate in this particular bill.

If that was called the inflation encouragement board you would think, "Well, that's silly; we wouldn't want to call it an inflation encouragement board." We feel that way about the term "Inflation Restraint Board." We do not believe it is going to restrain inflation.

I am really pleased that the parliamentary assistant is here, the undersecretary of the Treasury is here to explain that to us, because I am telling you--

Mr. Martel: He can't.

Mr. Laughren: --when people ask me about restraint in the public sector, I don't know how to explain to them how this is going to restrain inflation.

I went down to meet the miners at a reception at the Royal York during the last couple of hours and hardly any of them had bad backs or white-hand syndrome or anything like that.

Mr. Martel: Or wage restraints.

Mr. Laughren: They weren't crippled miners. These were people who were the bosses in the mines, mainly here in Toronto.

A couple of them said to me, "What's going on in the--

Mr. Piché: What are you doing here? Who invited you?

Mr. Conway: You've got to give Piché a star for that.

Mr. Laughren: I'll give Piché a star for that.

Mr. Watson: I would love to have a five per cent increase.

Mr. Laughren: If I was earning \$100,000 a year I could live with a five per cent increase too.

Some of them said to me, "You know"--I want the member for Cochrane North to listen to this because he got off a good line at me there a minute ago. Several of the mining people said to me, "We're very pleased that you New Democrats came to this reception."

Mr. Piché: That's not what they told me.

Mr. Laughren: I said to them: "Have you told Rene Piché that?" They said, "No, but seriously"--they didn't want me to joke about it--"we are glad you have come down here to talk to us, because you make us think and you make us re-evaluate a lot our preconceived ideas about mining."

I said, "Well, I'm glad I'm here too."

I won't go along with that any further, but no, I'm serious about that. A couple of them--

Mr. Piché: I was embarrassed for you when you took that doggie bag though.

Mr. R. F. Johnston: That was for me.

Mr. Laughren: They asked me to bring that back for you, René.

Mr. Chairman, a couple of them did ask me what we were debating and why it was taking us so long and how we could possibly oppose a bill that would restrict increases in compensation in the public sector.

As I talked to them, most of them smiled rather sneepishly when I said to them, "Of course, you are in the private sector, aren't you?" They all nodded sheepishly, if I could use that term.

Interjections.

Mr. Watson: Sheepish about being in the private sector?

Mr. Laughren: They said, yes, they had to admit that was true, they were in the private sector and therefore it was much easier for them to restrain someone else's level of compensation and not their own.

I want to tell you that when I asked them, "Do you really think that restricting the compensation in the public sector to nine and five will solve any of your problems, any of the problems at all, in the mining industry?" not one of them even hinted that it would have anything at all to do with the mineral markets out there, which is an international problem. There was not a single indication of that. They know better. They know it's irrelevant.

It's really strange, you know.

Interjection.

Mr. Mitchell: Now, Elie.

Mr. Martel: Pardon me, I apologize.

Mr. Piché: Not Tories, government members.

Mr. Martel: What's the difference?

Mr. Piché: A majority government, and we're not acting like it right now.

Mr. Martel: I listened to the Liberals tell me about a fair wage policy.

Mr. Laughren: A majority government probably requires even more responsibility than does a minority government. When there is a majority government there is an added--

Mr. Piché: We're here to govern.

Mr. Laughren: I agree.

Mr. Piché: The people of Ontario said, "You are the party we want to govern."

Mr. Laughren: That's correct. I agree with that.

Mr. Martel: With justice.

Mr. Piché: You with your small minority feel that you should be the governing party. You have taken democracy and you know what you are doing with it right now?

Mr. Laughren: What?

Mr. Mackenzie: Do you realize there is an additional responsibility on those in government, René?

Mr. Piché: To a certain extent, yes, but you have overdone it right now. You agree with that, Mr. Mackenzie, I'm sure.

Mr. Mackenzie: No, I'm saying you have an additional responsibility you're not showing--

Mr. Piché: That's right, but to a certain extent.

Mr. Laughren: The point we are trying to make is that majority governments have a responsibility to look after the rights of minorities.

It doesn't take any kind of common sense at all to always respond to the wishes of the majority. That's a very easy out for any government. Surely one of the measures of good government is

how it responds to the minorities within their jurisdiction. I'm sure the members would agree with that. The member for Cochrane North would certainly agree with that.

You're not behaving that way. You are saying to Ontario, "We think that most of you would like to see restraint in the public sector so, damn it all, that's what we're going to do." That's what you're doing. You haven't taken the next step and said: "wait a minute. What effect will that have? Will that have a good impact? Will it affect the rate of inflation? Will it create employment? Will it rebuild the manufacturing sector? Will it stimulate the resource sector?"

You have done none of those things. You haven't even gone that far to look into the impact of your legislation. That's your responsibility.

When the government members say that we are making a mockery of the democratic process, I want to tell you, you should look in the mirror. Look in the mirror, because you are the people who are not carrying out your responsibilities in the democratic process. That's where you should be looking, not to the opposition.

I would ask you, Mr. Chairman, if the government members can remember any time when the opposition dug in for a prolonged debate, and I emphasize that phrase, for a long debate on a piece of legislation the way we have on this one. They would have to say no, there hasn't been such a time.

It is not the common thing to have us debating a bill at such length. It's a very unusual thing to happen in the Ontario Legislature. It's very unusual. I have only been here 11 years--

Mr. Conway: That long?

Mr. Laughren: --and I have never seen it happen, never. Maybe the members who have been here longer have seen this happen before.

That should tell the government members something. This is not something we do lightly, engage in a prolonged debate. We don't do that lightly.

Perhaps rather than take the easy way out and accuse us of filibustering, you might ask yourselves why we are engaging in prolonged debate. You might ask yourselves that and understand that there is a principle here that is very, very important to us.

I did not hear anybody objecting when I used the analogy that if we were to bring in legislation taking away resources from the private sector that you would do the same thing. You know you would. Somehow that is different in your minds, that because you are a majority government, as the member for Cochrane North keeps saying, it is different somehow. Nonsense, it is no different at all.

8:50 p.m.

If you could show us that there is a component of inflation restraint here, you could probably convince us. But you cannot show us. You have not shown us at all, not one iota. You are laughing, but it is true.

Mr. Martel: You cannot.

Mr. Laughren: You cannot show us how you are going to restrain inflation with this piece of legislation. You cannot do it.

Mr. Martel: Ontario health insurance plan premiums go up, gas goes up, hydro goes up. Where is the restraint?

Mr. Piché: Wages go up.

Mr. Martel: No, they do not.

Mr. Laughren: This legislation is selective in two ways. One, it is selective in whom it is applied to. Right? The public sector. It is also selective in that it only applies to certain people in the public sector. It does not apply to rates and prices.

Mr. Piché: The private sector is affected. We have 500,000 people unemployed in this province.

Mr. Foulds: This bill does not create one job.

Mr. Laughren: That is the point.

Mr. Piché: If I was working in the public sector and I was going to get five per cent instead of eight or nine per cent, I would be very pleased to keep my job, keep the wages I have now--

Mr. Foulds: Are you expecting to fire them now?

Mr. Piché: --keep my job and get five per cent on top of that. I hire about 40 people. I know what the private sector is going through right now.

Mr. Laughren: I am not quarrelling with that at all. What I am saying to you is that by bringing in this piece of legislation, you are not going to do anything about that problem.

Mr. Piché: Yes, we are.

Mr. Laughren: How?

Mr. Piché: What else then?

Mr. Laughren: Are you telling me that this is going to affect one bit the layoffs in the mining industry or in the auto industry or in the pulp and paper industry?

Mr. Piché: It will try to stop it.

Mr. Laughren: Try to stop what?

Mr. Piché: The layoffs and the unemployment.

Mr. Foulds: This bill? How does this bill try to stop that?

Mr. Laughren: It cannot do it, René.

Mr. Chairman: Order.

Mr. Piché: You have to try to stop it. There are others involved than the public sector.? That is the important thing.

Mr. Laughren: I appreciated the chance to have--

Mr. Piché: You are not speaking; we are voting now.

Mr. Chairman: You were not really through, were you? You were just having a drink of water.

Mr. Laughren: No. Let the record show I had some water. The members opposite have simply got to understand that if we are going to make rapid progress on this bill, as opposed to prolonged debate, they have got to start engaging themselves in the debate. You have to speak on the different clauses, explain to us why you are proceeding with the particular clauses, why you disagree with our amendments. Otherwise, we have no alternative but to believe that we are right and that our amendments are correct but that you simply cannot support them because you have been given your marching orders. You know that we march to a different drummer.

Mr. Conway: But march all the same.

Mr. Laughren: Therefore, if you want to move this bill along, which we would like to do, to its proper end, namely defeat, then you should engage yourselves in the debate to make sure that we understand fully why each one of these clauses in this bill should be there, why it should not be amended as we are suggesting.

Surely you agree that it is our responsibility, as the opposition, to make amendments as we see fit. You would agree with that, I am sure. That is our job.

Mr. Piché: Speak on it to a certain amount of time, but not the way you are doing right now, abusing your rights in this committee.

Mr. Laughren: On that note, Mr. Chairman, I will conclude my remarks.

Mr. Piché: Oh, good, can we vote now?

Mr. Stevenson: I just have a few brief comments. Mr. Laughren stated that if they were in power they would take over all the nonrenewable resources and that we would put up a fight. I am sure that we would put up a fight. I am sure it would be a very active fight and debate and so on.

Mr. Martel: Ask him about Petrocan and Suncor.

Mr. Stevenson: I am not sure we would go on indefinitely on that particular thing. You make your point. That is your job, as the opposition, of course. Somewhere there becomes a point where you have made your case. I think you have made your case and made it very clearly. As far as we are concerned, it is time to move on with other sections.

As far as talking to various amendments and so on, I think the statements of the Treasurer (Mr. F. S. Miller) and the statements of the Premier (Mr. Davis) and comments that have been made here in the committee certainly have made our position fairly clear. I do not know that we have to be going over and over those particular statements.

Mr. Laughren: It seemed like a good idea at the time.

Mr. Stevenson: I am not sure that we require any further explanation, at least on the general intent of the bill and what is hoped to be accomplished and how. It has been stated many times by the Premier and by the Treasurer. It is not totally fair to everyone that it affects. Under the circumstances, it is the government's position that it is a worthy piece of legislation and something that is required under a really extreme financial situation that exists in this country right now.

Its effect on public servants has been made very clear by your party and others. I think the effect on taxpayers and so on has also been made clear over the time and the situation is that in times of extreme financial stress on governments at all levels, sometimes one has to take steps that are not particularly tasteful to anyone.

That is what this bill attempts to do. Certainly we are supporting it with some amendments. I do not know that there is any real point in going over the stand that our party has taken.

As far as the actual name of the board goes, the Inflation Restraint Board, again, our position is clear. You do not agree with it and I accept that. To say that we are going to sit here and resolve that situation, I am sure we are not.

Mr. Martel: What does the board roll back? That is the real issue. You say we have to pass it through because those are unforeseen costs. That is a wishy-washy way of handling it.

Mr. Stevenson: The board rolls back the labour component of the costs. We cannot expect companies who are--

Mr. Martel: Ontario health insurance plan premiums, gas, hydro.

Mr. Stevenson: OHIP, we have been over that in question period.

Mr. Martel: That is right, but the workers cannot pass it through. They have no control over it. That is the real issue.

Mr. Stevenson: The companies in Ontario that are receiving energy that is outside of the federal wage and price guidelines cannot afford to bite the bullet.

Mr. Martel: Can workers whose mortgages go up bite the bullet?

9 p.m.

Mr. Stevenson: Well, the situation is, and it's been said many times, that many of the people--not just workers, but anyone--

Interjection: We're all workers.

Mr. Stevenson: --are not exposed to the full cost of living increases. For much of the population, about 60 per cent of the consumer price index is a more representative number of what people see.

I don't argue that there will be certain groups that will be under some pressure meeting these payments, but it's also safe to say there are certain taxpayers out there in the private sector that have been laid off or have received no increases at all.

Independent business people and so on are under situations where their incomes are probably going down and they are being required to continue to pay taxes; in many cases increased taxes and--

Mr. Foulds: So you admit this is a move to limit the provincial debt that Frank Miller can't control in other ways, so he is doing it here?

Mr. Chairman: Order here.

Mr. Stevenson: In one form or another we have been over this question many times, Mr. Chairman, and I request at this time that the question now be put.

Mr. Foulds: We were just wondering what your position is--whether you are proposing unlimited debt.

Mr. Chairman: All right the--

Mr. Foulds: Point of order. Can a member make a motion after he has spoken?

Mr. Piché: Yes. That's the simplest of the rules.

Mr. Foulds: My understanding was you had to make the motion and then--

Mr. Chairman: It can be moved at any time when he is speaking.

Mr. Foulds: Is he speaking?

Mr. Chairman: Yes. As he is finished speaking.

I'm afraid I must rule that out of order. I must rule it out of order under standing order 36 as an abuse to the minority. No Liberals have spoken although none has requested to speak, but only two NDPs--

Interjection.

Mr. Chairman: --we do have five in the room and only one PC has had a chance to speak. There are two more PCs who have requested the right to speak. At this time I must rule that out of order.

Interjection.

Mr. Chairman: You would like to get rid of me, would you?

Mr. R. F. Johnston: Mr. Chairman, after that commendable ruling--Mr. Jones had earlier said he'd be pleased to, if Mr. Laughren ceded the floor, explain why the definition of this board as the Inflation Restraint Board was appropriate. If you would like to, I would be glad to give you the time now to make that statement, if you want to add more to what Mr. Stevenson said. Otherwise I'm prepared to--

Mr. Jones: I will do it now if you wish.

Mr. R. F. Johnston: Oh, so you would like to come after us?

Mr. Jones: I'll go now if you wish.

Mr. R. F. Johnston: I'm in your hands, Mr. Chairman.

Mr. Chairman: Are you giving away the floor to Mr. Jones?

Mr. R. F. Johnston: I'd be glad to follow him if he would like to go first. We haven't heard that statement yet and I'd be glad to hear it before I speak.

Mr. Chairman: No. You have the floor in order and either you should continue with your statement or perhaps then give way to him.

Mr. R. F. Johnston: I see. What would that do to my getting back--

Mr. Chairman: I don't know. I'm very poor at anticipation.

Mr. R. F. Johnston: I see. Well, I had better speak. I have the sense that at some point or other that motion we just heard might become an order before I got back on the list, having already given up my chance to speak. Some ruling like this might cross your mind and I couldn't allow the--

Mr. Jones: Can you predict that long?

Mr. R. F. Johnston: No. I'm just going to try to expand on the rather terse, short statements made by the member for Nickel Belt.

I will raise the questions again. Then the parliamentary assistant can maybe respond to some of my concerns about this name we've given the board--Inflation Restraint Board. I would like to know how this board is going to affect inflation at all. I would suggest and pose to the parliamentary assistant that at the moment interest rates are dropping without this board and beside, the--

Mr. Piché: He is speaking to an amendment we have already dealt with; the name. We voted on that.

Mr. R. F. Johnston: We are defining clause 1(a). I should not respond to interjections. I will try to be more disciplined. You should have caught me on that. I will be more disciplined.

Interjection.

Mr. R. F. Johnston: Yes, these others may trivialize it, but I will not.

Interest rates are already dropping. No one could claim that the six and five federally, or the proposal of nine and five provincially--we would agree there are very weak arguments to be made there, that the effects--have had any effect on the interest rates. If the drop in interest rates continues, inflation in larger terms will probably be brought down. I think most people would agree with that.

I cannot see--and I would like the parliamentary assistant to explain to us--how this board, as we are defining it, will affect that interest rate. I would really like to know what effect it can possibly have. I would suggest other factors outside this board will have an effect on it, but not the board itself.

Look at the private sector and the kind of example this wage restraint package and inflationary monitoring bill would have on them. I would also suggest it is not going to have any major effect. The private sector is already weakened; surely that is one thing on which we are all in agreement. The effects of inflation have already been felt by the private sector and they are trying to respond in a number of ways. There have been closings because of the high inflation, and those companies will not reopen just because we have an Inflation Restraint Board.

We also have the situation where workers have actually taken concessions, have gone into work sharing, have taken partial layoffs to keep their jobs. On top of that, we have also seen that the wages are dropping in the private sector. So that is already happening.

I would like to know how this board is going to add to that, any more than is already happening, as to the inflation restraint, the effects on the private sector. I would suggest it is not going to have any effect at all.

Given those situations, I would suggest the government has provided the perfect scenario for bargaining with its public servants. It has all of these things happening in the economy, and it can turn to its public servants and say: "Look, we are really strapped. We have to put our money into job creation, so we want to offer you less."

They had that opportunity in the last nine months or so, in contracts that came up. For one reason or another, they did not achieve the levels they wished to. But at the moment, surely they have that before them already. I would suggest they had that power just as strongly, although maybe not in as draconian a fashion as they do by bringing in this bill.

Even if they do restrain the public sector in this area, it would be very hard for them--and I wait for him to explain to me how the Inflation Restraint Board is actually going to say that this particular kind of restraint, the nine and five draconian imposed restraint, is going to have any more effect on the inflationary spiral in the province--

Interjections.

Mr. R. F. Johnston: Could I ask for some order? Is it possible? I find I seem to be speaking to a buzz.

Mr. Nixon: We are missing something, are we not?

Mr. R. F. Johnston: This is the second time the member for Brant-Oxford-Norfolk has felt it is appropriate to interrupt speeches. If you want to interrupt, take your seat, Mr. Nixon.

Mr. Nixon: I have every right to talk, but go ahead.

Mr. R. F. Johnston: I do, and so do you, if you would like to take your seat. If you do not wish to, then keep your mouth shut.

Mr. Chairman: Order.

Interjection: You cannot talk to Mr. Nixon--

Mr. R. F. Johnston: I just talked to Mr. Nixon that way.

Interjections.

Mr. Chairman: It is quite in order. I did bring up Mr. Martel the other night for doing that same thing, speaking out of the chair.

Mr. R. F. Johnston: Which would be the thing to do, if I might say so. But commentary from behind me is not becoming. If he wants to make those comments, I would prefer them to my face and right in front of me.

Mr. Nixon: The whole world ought to stop and listen.

Mr. R. F. Johnston: I would suggest we are here to talk and to listen and not to be interrupted.

Mr. Chairman: Yes, that is quite in order, Mr. Johnston. Carry on.

Mr. R. F. Johnston: The argument I am making is that you already have, as a government, the capacity to bargain strongly with your public sector, in terms of holding down their requests for increases without going to this draconian measure. I would like to have explained to me how much difference this is going to make to the overall inflationary effect on the province, bringing in this kind of measure. I would suggest it is not a great deal.

9:10 p.m.

Look at the second side of this bill; the cost side. I would argue with the member for Cochrane North and the parliamentary assistant, that, by God, with the pass-through that is involved in this, it is not a restraint bill. It will do nothing to restrain the actual inflation of prices.

Surely we all agree that the kinds of things that are forcing our prices up at the moment are the costs of energy, transportation, food--God knows it is not a question of the farmers' incomes on that--and land and property speculation.

If you look at this bill in terms of the kinds of pass-throughs that are allowed for corporations that are enforcing prices, I would suggest this is not restraint at all. I would think if you are looking for a real label for this board--being a bit facetious--you should call it the arbitrary powers and prices pass-through board. That is essentially what it is, if you want a real definition of what this thing is about.

If you do not go for something facetious like that, then at least have the decency to go back to the title of the act, which is much more accurate. It is a board for the restraint of compensation in the public sector, and the monitoring of inflationary conditions. That is all it does. It restricts the wages of public sector people--that is a clear definition--and it monitors. It cannot do a damn thing other than monitor prices. I would suggest that would be a far more honest kind of title and definition for this board.

To suggest this is a restraint board in any way would be to suggest you can establish a restraint for Elie Martel or René Piché or Eddie Sargent. There is no such thing as restraint there. You can monitor, but you cannot restrain. I would suggest the title of this board is totally inappropriate, and that it should be, as it says in the title of the bill, a board to restrain compensation in the public sector, and to monitor prices. That is all it does.

I wait for the parliamentary assistant's explanation as to how it does anything other than what I have said. I feel that is a much more accurate definition of the meaning of board in this case, not the Inflation Restraint Board at all.

Mr. Jones: First, we have heard some talk about strategy and what it is, and what is within common sense as we go about our duties here. I think we really have to agree this amendment is pretty silly. It proposes to lift this whole section out. Earlier NDP speakers this afternoon talked about changes, and talked about a commission which would be proposed--about which we would hear later--to follow the same design outlined in this bill.

Mr. Johnston raised some questions about how the name given to this board seems to make any sense. You have to go back--and Mr. Stevenson did that for us--to the comments of the Premier, of the Treasurer, and of others in the debate in the House when this bill was introduced.

You will recall this bill was explained as being but a part of addressing the province's economic problems and its recovery program. It was mentioned that inflation was a very large part of that.

In all of the discussions we have heard about economics, we have heard that government is a large part of inflation. If its growth is not curtailed, it fuels inflation. Everyone knows that is a basic economic premise.

You also asked how this bill would affect the private sector, for example. It is true that public sector wage controls will have a demonstrative effect on private sector wage settlements and their inflationary additions; and that is not so.

Interjections.

Mr. Jones: Mr. Johnston really wanted us to make an attempt at this. Inflation, as we all know, is a psychological thing in very large degrees. We know that if people are expecting--

Interjections.

Mr. Jones: If people look at the public sector as they would have, in all of 1981 and in the first months of 1982 we know that public sector settlements were outstripping those in the private sector--and I can share those statistics with you if you find them helpful.

Admittedly, as you pointed out, part of that is because the private sector was already under other outside pressures. You would also know that a lot of the public sector decisions, in arbitration and otherwise, are not susceptible to these same pressures that are afield, if you will, in the private sector.

You talk about pass-through. As you do so, I suppose what you are suggesting is that if we are not to curtail wages in our public sector, a very major dollars-and-cents factor and a large part of government costs, then we are effectively going to be passing it along to the taxpayers. What the government has been saying, in proposing this restraint in its public sector wages, is that it does not want to go out and be borrowing more money. That is an expensive proposition, as we all know. You are talking about interest rates, but for a government to go out and borrow more

money in the private markets--to increase taxes is another alternative, and we know what that does. You did not all agree with it, but we recently gave a holiday to what we felt was a very important sector, our small business sector.

We cannot have it both ways. We are saying we are either going to restrain government costs--and you cannot ignore that wages are a big part of that in the public sector--or otherwise we have to increase borrowing, increase taxes, or start cutting back services or cutting back the numbers of people in the public service.

We have said that controlling those costs, given that wages are such a part of the dollars of a budget, whether it be in the transfer payments to the other levels of government, is what constraint is about and this is why this bill is here. Yes, I suppose it is an example to and has a psychological effect on the private sector.

Mr. R. F. Johnston: How much more of a psychological effect on the private sector do you need? That was one of the Treasurer's great things, that it would signal this.

Mr. Jones: For one thing, I think it is safe to say that we have certainly had people in the private sector looking at it. Rightly or wrongly, they have a perception about the public sector, not just in its wage scales, but especially as they look at 17-week maternity leave they start to look at the benefits that are perceived to be in the public sector and in very many cases are. The private sector naturally works towards having those.

Questions of the legislative impact were raised by Mr. Laughren, I believe. He asked if the government and government members, those in the Treasury, had looked at some of the effects that this legislation might have. In the debate in this committee, talk has been made about the need for job creation, The government is doing other things outside the realm of this program, but it has also looked at some of the positive things.

You people have made the argument about helping the economy. We have heard it said here that we help reduce inflation if we have increased consumption, increased buying power, more people at work. You are saying that one of the things we are doing, if I understand it correctly, by reducing our public sector is somehow or another reducing buying power and thus fuelling inflation.

It happens that the Treasury has done some studies in this area. Treasury people did an econometric simulation to a considerable extent. They took a look into 1983, for example, and found that there would be 67,000 more jobs as a result of this bill. They foresaw in 1984 there would be 156,000 more jobs. They used certain assumptions, of course, and one of those was an average increase of six per cent in 1983 and five per cent in 1984.

Mr. R. F. Johnston: Can you table those? Did they say what the rationale for that was?

Mr. Jones: No, I don't have them for tabling, but I have

heard these studies being made and discussed and we heard, more important, from many private sector people. I can tell you I know something about the business background. Like Mr. Piché, I do hire people and I know something about the difficulties some companies are having. I have some that are having difficulties and some are doing rather well. It depends on where they are and how they are insulated against the specific economy and what their product is.

I can also tell you that at Treasury they certainly have had employer after employer, large employers, small employers, in the private sector share with us that they feel strongly that the economy will benefit, that inflation will--

Mr. Martel: If you were an employer, wouldn't you want five per cent for Christ's sake? Come on, let's not be so bloody ridiculous.

Mr. Chairman: Mr. Jones, please disregard the interruptions. Mr. Martel, you are on the list three down the way. You will have your opportunity to speak.

Mr. Martel: That's nonsense.

Mr. Chairman: He doesn't have to stop or be interrupted because he speaks nonsense.

Mr. Martel: Don't come here with that nonsense.

Mr. Jones: Mr. Chairman, I know that Mr. Martel and others on other occasions would like to, and they even accuse us of it, of setting one segment of our economy against others and that's not the case at all. The remedies and the discussions that we have made in proposing this bill have all addressed the economy as a whole.

I know people have tried to take us to Sudbury and take us to other certain specific communities and certain hardships, and that may be fair. We have listened and we have appreciated those comments. However, this bill is for the overall economy. It is for the public sector; it is for the private sector; it is for the employer and the employee.

Certainly the employer is not going to benefit out of hard times. We have heard you say it, Mr. Johnston, and Mr. Piché was mentioning it a moment ago, and it's true. Rather than try to set employers and employees in debate or otherwise against each other, they will all benefit by recovery of the economy.

What we simply said is this bill is but one block in the things that the government is doing. Our Premier has gone to the Prime Minister, because we heard earlier this afternoon a lot of discussion about how some of these things are federal. On some of the things that we are having to allow for and pass through, whether they be energy related or whether they have to do with interest rates, we have had our Premier all but plead with the Prime Minister for specific, complex but specific, realistic proposals for economic recovery across the country because we are

a part of that and while we have a large role in it, we know that so many of them are national.

We have coming shortly, as we know, a new finance ministers' meeting. We have a lot of things at work. We are, however, saying that this bill is an important part of that and is an important part of helping to bring inflation under control. It is an important part of our being a responsible government and not having to go to the alternatives, such as increasing taxes, going for increased borrowing, and having to face the cutting of services or perhaps the laying off of people within our public service.

We hear the opposition members and some of them say to us, "You people haven't thought about it," or, "You do not have an open mind about it. You're not thinking about the effects of this legislation." I suggest that we are. We're seeing them perhaps with different glasses; we're seeing them in a positive way. We are not, for one moment, diminishing the seriousness of the situation of where our economy is at this, but we see different remedies and we are, as a government, proceeding, as we saw from the last budget, and other proposals are going forward.

We have heard one yet again from the Treasurer yesterday in his commitment of another \$50 million towards another 7,500 jobs above and beyond the commitment that he met with Mr. Axworthy about in the last few days.

I just say that because some of our members have been courteous in their replies to the opposition, it is not to say we don't have specific thoughts about why this bill is an important fight in helping us bring an economic recovery program back in this province. We do believe that it very definitely will be an important assist in reducing inflation.

Mr. R. F. Johnston: On a point of order, Mr. Chairman: I appreciate very much the parliamentary assistant's response. It was one of the first I have heard that actually was trying to articulate the point. While I disagree with many parts of it, and that will come up, I am sure, as we go through the bill, I appreciate his taking the time to actually thoughtfully make that statement.

Mr. Chairman: What is the point of order?

Mr. R. F. Johnston: I couldn't have been allowed to say that without interrupting the order if I hadn't said "point of order."

Mr. Piché: How many speakers are there yet to go, Mr. Chairman?

Mr. Chairman: Piché, Renwick and Martel.

Mr. Piché: Would you think by this time that the rights of the minority have been looked after?

Mr. R. F. Johnston: What a leading question.

Mr. Piché: I am asking the chairman a question because of the rights of the three parties. Mr. Chairman, instead, I think that the three parties are going to support item 36 of the standing orders because we have discussed this at length and I believe we should move on. So I would like to invoke standing order 36.

Mr. Chairman: Mr. Piché moves that the question should now be put.

Mr. Piché: I am sure everyone will agree to that. I would like to thank especially the NDP for supporting that.

Mr. Chairman: Mr. Mackenzie's motion having been placed and Mr. Piché having moved to invoke standing order 36, the vote will proceed.

Mr. Martel: Wait a minute, Mr. Chairman. Are you accepting that?

Mr. Chairman: Yes. At this time I am accepting it and I will give my reasons. Three NDPs who have spoken, two PCs have spoken as well as Mr. Piché, who spoke briefly in moving standing order 36, and no Liberals have spoken, but I did point out to them, upon Mr. Stevenson's previous standing order 36 motion, that no Liberals had requested that their names be put on the list. Therefore, I do feel there has been satisfactory discussion and it does meet--

Mr. Martel: On a point of order.

Mr. Chairman: I am in the middle of a sentence.

Mr. Martel: A point of order before you make a decision.

Mr. Chairman: There is no discussion when--

Mr. Martel: Mr. Chairman, on a point of order: isn't it obvious to you that the Tories are trying to invoke closure here?

Mr. Chairman: Mr. Martel, I am not recognizing your point of order.

Mr. Martel: You can hear me.

Mr. Chairman: No.

Mr. Martel: Sure, you can. You are arguing with me, so obviously you--

Mr. Chairman: There is nothing out of order.

Mr. Martel: How do you know there is nothing out of order until I raise the point of order?

Mr. Chairman: Standing order 36 motion has been put and is in order. It is now up to my decision as to whether it is

appropriate and only I can move it out of order. There is nothing out of order.

Mr. Martel: Before you do, Mr. Chairman, on a point of order--

Mr. Chairman: No, I will not accept the point of order.

Mr. Martel: What do you mean, you won't accept a point of order?

Mr. Chairman: I will not accept it. I will refer you to a ruling of Mr. Speaker Turner that it is not necessary to always accept points of order and at all times.

Mr. Piché: Especially when they are trying to disrupt--

Mr. Chairman: Mr. Piché, I am in the middle of something. It is in the journals and it was on November 13, 1981, in Hansard, at pages 3174 to 3180. Mr. Speaker Turner stated: "However, I declined to hear from the member for Brant-Oxford-Norfolk (Mr. Nixon) and the member for Ottawa East (Mr. Roy) on Tuesday night. I felt so strongly that the wording of standing order 36 was so very clear that there could be nothing out of order and the House is aware that many times my predecessors have declined to hear points of order when they are convinced that nothing was, in fact, out of order."

Upon that precedent I am ruling that there is nothing out of order and I will not recognize Mr. Martel's point of order. I am not listening to or recognizing Mr. Martel.

Mr. Piché: Then I would like to--

Mr. Chairman: I am not recognizing you either, Mr. Piché. I am carrying on with my ruling on standing rule 36.

Mr. Martel: Mr. Chairman, on a point of order--

Mr. Chairman: I cannot hear Mr. Martel.

Interjections.

Mr. Martel: You certainly can, Mr. Chairman. If you will recall, the House almost deteriorated to physical violence.

Mr. Chairman: Order, order. I hereby invoke standing order 10 for 15 minutes.

Mr. Mackenzie: What do you mean by 15 minutes? Twenty minutes, Mr. Chairman.

Mr. Chairman: No. I named 15 minutes.

Mr. Renwick: Mr. Chairman, you cannot do that. Will you get back into the chair?

Interjections.

Mr. Chairman: Standing order 10 has been called. The chair is not sitting; this committee is not sitting.

Mr. Chairman suspended proceedings at 9:32 p.m.

9:47 p.m.

Mr. Chairman: I believe before we began our 15-minute recess under standing order 10 I was in the process of giving an explanation in making my ruling for Mr. Piché's motion under standing order 36.

I said at this point I do not believe that it is an abuse of any standing orders. I know of none.

Second, it is not an infringement of the rights of the minority, because I had listed the number of speakers.

Therefore, I rule Mr. Piché's motion in order. May I point out that I have considered it. We have the leapfrogging occurring again and therefore--leapfrogging is, I am afraid, my expression--it does go back to the original motion and not the amending motion of Mr. Piché.

Now I'm getting a little ahead of myself, but I do want it understood what's happening--that under standing order 36 Mr. Piché's motion is going to be voted upon and if it is not carried, that is the end of it. If it is carried, then the original motion will be immediately put without debate and without amendment and that will be on the original motion which is--

Clerk of the Committee: Original question.

Mr. Chairman: Yes, I'm sorry, the original question, which is of course: Shall clause 1(a) stand as part of the bill? It is leapfrogging that is going on; I have made myself clear, I hope. All of those--

Mr. Laughren: Could we have time to caucus?

Mr. Chairman: Yes, how many minutes?

Mr. Laughren: Twenty.

Mr. Chairman: Twenty minutes, under standing order 89(c).

Mr. Laughren: Under 89(c).

Mr. Piché: Mr. Chairman, 89(c) depends on how many members are missing. Are any members missing?

Mr. Chairman: Yes, I believe Mr. Mackenzie is missing.

The time is now 9:50 p.m., so 20 minutes would be 10:10 p.m.

The committee recessed at 9:51 p.m.

10:10 p.m.

The committee divided on Mr. Piché's motion, which was agreed to on the following vote:

Ayes

Barlow, Conway, Elston, Eves, Mitchell, Piché, Ruston, Stevenson, Watson.

Nays

Laughren, Mackenzie.

Ayes nine; nays two.

Mr. Chairman: We shall proceed with the original question, which is: Shall clause 1(a) stand as part of the bill? Would you please reply to the clerk as he calls your name.

The committee divided on the motion that clause 1(a) stand as part of the bill, which was agreed to on the following vote:

Ayes

Barlow, Conway, Elston, Eves, Piché, Mitchell, Ruston, Stevenson, Watson.

Nays

Laughren, Mackenzie.

Ayes nine; nays two.

Mr. Chairman: Shall we proceed with clause 1(b) of the bill?

Mr. Mackenzie: Mr. Chairman, I have an amendment.

Mr. Chairman: Mr. Mackenzie moves that section 1 of the bill be amended by striking out clause 1(b).

That is in order, before anybody speaks up.

Mr. Laughren: René, are you going to take that? He's anticipating you now.

Mr. Piché: Mr. Chairman, bring in section 36 again.

Mr. Chairman: No, Mr. Piché. Mr. Mackenzie, would you please give us your comments on this amending motion?

Mr. Mackenzie: Yes, I will.

With your indulgence, first I would like to do something that I forgot to do on Thursday. That is simply to recognize that Thursday afternoon and evening we had a group of eight people from the Canadian Union of Public Employees wage control committee here in the audience, one of whom is still with us today. I had told them at the time that I would put it on the record so that their

union--they were representing locals from right across Ontario--would know they had been in here on Tuesday monitoring the hearings. I just wanted to make mention of that.

Clause 1(b) reads: "'Minister' means the Minister of Consumer and Commercial Relations." We would like to discuss this with you for a few minutes. We don't intend to make a long hassle out of this, but there is a legitimate question to be asked here. That is, why specifically the Minister of Consumer and Commercial Relations?

I suppose the parliamentary assistant will refer to the inflation restraint side of it, but inasmuch as this bill is primarily one that controls workers' wages, a valid question--certainly one that's going through my mind--is why is the minister the Minister of Consumer and Commercial Relations? It seems to me that it's even more valid that it be the Minister of Labour.

As far as we're concerned, almost the entire bill affects and revolves around the labour movement and workers in the province. I know we could make an excellent case as well for the various other ministers that we wanted before the committee in the procedural motions at the beginning of the session for good and valid reasons. I refer to the Attorney General (Mr. McMurtry), or the Minister of Education (Miss Stephenson) because of the number of teachers involved, or the Chairman of Management Board of Cabinet (Mr. McCague). All of our requests were stonewalled totally by the Tory majority on this committee.

On those votes at least we had the Liberals with us. It would seem to be the only votes we had them with us on.

Mr. Watson: Stonewalling?

Mr. Mackenzie: Not one of them either spoke in the debate in the House or would appear before this committee. All of them are directly affected. I don't know what else you call it but stonewalling.

Mr. Chairman: Order.

Mr. Mackenzie: The implication was that you weren't stonewalling. What were you doing? That is a valid question.

Mr. Watson: We weren't filibustering like some--

Mr. Chairman: Order, Mr. Watson.

Mr. Mackenzie: It seems to me that clause 1(b) of this act which says, "'Minister' means the Minister of Consumer and Commercial Relations," has got the wrong minister. He's got a portion of the responsibility, but I know darn well that the minister that's really going to get the flak is the one you seem to be most protective of. That's the Minister of Labour in this province.

I think there is as valid or more valid an argument that it

be the Minister of Labour, just as it could be several other ministers rather than the Minister of Consumer and Commercial Relations. I have real difficulty with how you've come up with that particular minister in that particular section.

When you take a look at this bill, almost everybody--even some of your friends--know that about the only control on prices are possibly licences for fishings and campground fees. There is no real power because everything will be passed through in terms of the other prices that are involved. But the wages of something like a half a million people and public service workers in Ontario, are drastically affected; not only their wages, but almost every other right that they have. In effect they might as well not have a union.

When you look at the directions that we questioned the Minister of Labour (Mr. Ramsay) on in the House, there is no question they've already ground the arbitration process to a halt. That was vital. The arbitration process--I do not think the members can be reminded too often--was the sawoff tradeoff for those workers who didn't have the right to strike.

Never mind that you've eliminated the right to strike, but where they didn't have that right in Ontario, they had the right of arbitration. They don't have that any more. I can't see of any kind of appeal we can have to the board and to Mr. Biddell--he doesn't have to give any reasons or any written judgement. The problem you are going to have in Ontario for the next while is going to be in the labour field.

If I am reading correctly my colleagues in the trade union movement and the mood of the convention that I was at yesterday and today, they are much more aware than I thought when we started out--even in the private sector--of what's going on in this particular bill. That's where you are going to have the problem.

How do you lay the load? You've laid a guilt trip on all the public service workers as being responsible for all of our problems. Are you going to now lay the responsibilities of the problems you'll have in the labour field on the Minister of Consumer and Commercial Relations? It doesn't make sense.

I would like some real answers as to why that's the minister you've come up with in this particular clause of the bill. It's a totally valid question to be asked. I would like to know your reasoning behind that particular suggestion, Mr. Chairman. I'm wondering if the parliamentary assistant will respond, because--

Mr. Jones: Mr. Chairman, I don't think any of us want to go back to the whole debate involving a litany of ministers and why any of them would or should appear. We've had that debate. Mr. Renwick is probably going to give us another touch of it as he did in earlier comment in the committee.

As we talk about the administered prices side of this legislation, we've said consistently from the start--including the offer that that minister would attend with us at the appropriate time--that he was very much the appropriate person. I would think

it would be for the same reasons that questions during question period to do with prices tend to be directed to him.

I guess we are going to probably see some kind of an amendment coming forward as to why the Treasurer is mentioned in clause 1(d). We know the reason for that is because of the reporting provisions in the bill.

We also know in the early sections of this bill where we're talking about the responsibilities and how they go through to the Lieutenant Governor in Council, that there has been a lot of quarrel with the board. There have been comments by the opposition that the board seems to have too much authority and is not accountable.

We have pointed out repeatedly in the committee that the board is very much accountable to the executive council. Clearly the bill even provides for their removal from office. Nothing could be more accountable than that. So there are sections 3 and 4 of the bill--the minister mentioned in that context early in the clarification.

The board has its responsibility to the Lieutenant Governor in Council, and as we all know and we've heard mentioned in this debate, every minister of the cabinet of this government, has total accountability and responsibility for any piece of legislation. It happens the Treasurer has been the minister carrying the bill. Of course it has been designated that the Minister of Consumer and Commercial Relations should be involved in the administered prices section of the legislation.

10:20 p.m.

Mr. Chairman: Thank you. Mr. Renwick has now gone. He had his books with him, so I believe he has departed for the evening.

Mr. Conway: I am sure Mr. Renwick would want it said that he is involved in the "late show" shortly in the House.

Mr. Laughren: Clause 1(b) of this smoke and mirrors bill is the one I would like to address. I will tell you why.

When I looked at clause 1(a), which we just finished dealing with, it seemed to jar that it is an Inflation Restraint Board, when even the title of the bill, as was mentioned before, is not inflation restraint but restraint of compensation in the public sector. That is the purpose of the bill. Then you turn that around and in the definition you create a board called the Inflation Restraint Board. It is not called a restraint of compensation board, but an inflation restraint board. That is misleading.

In this section you use the phrase, " 'Minister' means the Minister of Consumer and Commercial Relations." There you are giving the impression that the minister who is the important person here is the one who is going to look after prices. That is the implication here.

In the first clause 1(a), you are misleading us by saying that its main purpose is to restrain inflation, and you are misleading us in clause 1(b) by trying to give the impression that prices are what are important in this board, because it reports to the Minister of Consumer and Commercial Relations and he is responsible for it. I find it quite offensive that you would not at least be honest enough to call these the way they should be called.

It coincides with the intention of the bill. Probably, as a matter of fact, if you had a really tough Speaker who was really plugged into the precise rules of the House--and very often I am glad he is not--he could even, I suspect, say that those two sections do not coincide with the principle of the bill because that is not what the bill is doing.

Look at the title. The whole purpose of the bill is to restrain compensation in the public sector. You admit that; no one is pretending otherwise. Certainly the parliamentary assistant is not pretending otherwise, neither is the Treasurer. Yet when it comes to putting the names on them and even in the definition section, suddenly the smoke and the mirrors appear, and you have turned it around on a way that is, quite frankly, misleading.

I do not know whether it was done deliberately or not. I have no way of knowing whether the people who ordered that it be drafted this way said to themselves: "wait a minute. Let us not call it the restraint of compensation bill because it might get to be known as that. Let us call it the Inflation Restraint Board so that everyone who opposes it would be opposing restraining inflation."

Mr. Mackenzie: Or the arbitrary powers board.

Mr. Laughren: Yes, because then you would not want to support that. Then you get into the section on what ministry is responsible for it. No, not the Minister of Labour. He would be put in the impossible situation of defending the indefensible in terms of labour.

Mr. Mitchell: I think you rattled the earphones of the guys upstairs when--

Mr. Laughren: I would not want to ring anyone's chimes.

Mr. Mitchell: It is all right.

Mr. Laughren: Mr. Chairman, it is difficult.

I really do not like what you are doing with this bill. I really do not think it is fair. That is why we would like to see this clause stricken from the bill. You say you have public support for this piece of legislation. I heard the government House leader saying the government is not getting any flak out there, or virtually none, about this bill, and you do not see why we are digging in because there is not unhappiness with the bill.

Mr. Mackenzie: It just proves they do not listen to the right people.

Mr. Laughren: Yes. Is that partly because of the kinds of games you are playing with the bill as we look at it more closely? I must confess that when I first read the bill it did not really sink in. I do not think most of us read definitions very carefully when we first look at a bill. But the more you look at a bill and at all the various clauses in it, things start to fit together.

What is fitting together for me, in my head, about this bill is that you are not being honest with us. You are changing the definitions in such a manipulative way as to make it look as if this bill is going to do something that it is not going to do.

First, it is not going to restrain inflation, and you know it. It is not supposed to. It is supposed to restrain compensation in the public sector. Second, it is not going to restrain prices, but you put the title of the Minister of Consumer and Commercial Relations in here rather than the Minister of Labour or even than the Treasurer, who, it could be argued, is responsible for overall economic policy in the province. That is not the role of the Minister of Consumer and Commercial Relations, and it really is a farce to have that minister as the one responsible for this Inflation Restraint Board.

I suppose that if you misname the board, you then feel it is appropriate to misname the minister who is going to monitor it. Perhaps you really do believe that two wrongs make a right. I saw a poster in a school one time that said, "How can you be sure that two wrongs do not make a right?" Maybe the drafters of this legislation saw the same poster. Maybe they drafted that poster. I really do feel that, with that kind of draftsmanship of the bill, it is either very clever or very sloppy, one or the other. I do not know which it is.

I assume the government members are better able to answer that, certainly not the people who drafted the bill, because I know they would not do this. Perhaps the instructions were to draft it in such-and-such a way. I am not casting aspersions on the drafters of the bill, but rather on those people who directed that it be drafted in such-and-such a way. That is simply not the way legislation should be written in this province. We shall resist any legislation that is written in such a misleading fashion.

Mr. Foulds: I find clause 1(b) probably the one that displays in a nutshell the sheer hypocrisy of the government when it comes to this legislation. I use that word deliberately and advisedly. For those of us that have some respect for legislation, and during my 11 years in this place I have learned to have enormous respect for it, the basis of all good legislation is in its definition section.

I was startled when I had the privilege and responsibility for doing the leadoff questions for our party in the House, when we were questioning the Minister of Labour (Mr. Ramsay) very early on, he burst out in an interjection with the phrase, "What had I to do with it?" He meant this bill, which takes compensation--not merely freezes it--away from people that had been promised to them

in the second year of their contract. The Minister of Labour indicated to the House that he had nothing to do with the drafting of this bill.

Mr. Jones: Maybe he was asking the question more because he felt it should be addressed to the Chairman of the Management Board because it was a civil service matter.

Mr. Foulds: No. It was a question about compensation. It wasn't about the civil service. It was compensation in the health sector outside--

Mr. Piché: Mr. Chairman, the rules do not permit us to continue with the meeting, so I move we adjourn. It is 10:30 p.m.

Mr. Foulds: I don't think that's necessary if it's 10:30 p.m.

Mr. Chairman: I'm sorry, our instructions are definite. It is a 10:30 p.m. adjournment with Mr. Foulds having the floor. We are adjourned till tomorrow morning at 10 o'clock.

The committee adjourned at 10:31 p.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
INFLATION RESTRAINT ACT
WEDNESDAY, NOVEMBER 24, 1982
Morning sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Cooke, D. S. (Windsor-Riverside NDP)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mackenzie, R. W. (Hamilton East NDP)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Stevenson, K. R. (Durham-York PC)
Watson, A. N. (Chatnam-Kent PC)
Wrye, W. M. (Windsor-Sanawich L)

Substitutions:

Andrewes, P. W. (Lincoln PC) for Mr. Piché
Gordon, J. K. (Sudbury PC) for Mr. Brandt
Renwick, J. A. (Riverdale NDP) for Mr. Mackenzie
Ruston, R. F. (Essex North L) for Mr. Breithaupt
Villeneuve, O. F. (Stormont, Dundas and Glengarry PC) for Mr.
Stevenson

Also taking part:

Foulds, J. F. (Port Arthur NDP)
Jones, T., Parliamentary Assistant to the Treasurer of Ontario and
Minister of Economics (Mississauga North PC)
Martel, E. W. (Sudbury East NDP)

Clerk: Arnott, D.

From the Ministry of Treasury and Economics:

Bass, J. H., Solicitor, Office of Legal Services

From the Ministry of the Attorney General:

Fader, J. A., Deputy Senior Legislative Counsel

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, November 24, 1982

The committee met at 10:16 a.m. in room 151.

INFLATION RESTRAINT ACT
(continued)

Resuming consideration of Bill 179, An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province.

On section 1:

Mr. Chairman: I call the meeting to order. Mr. Foulds has the floor from last night.

Mr. Foulds: Mr. Chairman, just allow me a second while I remove my colleague's cigarette closer to him and farther away from me. Horrible ex-smokers. I actually love the smell of the thing and will not be able to contain myself.

I was speaking, as you will recollect, on clause 1(d) in the definition section, and I was saying last night--just to refresh your memory very briefly--that nothing illustrates the sheer hypocrisy of this legislation more than clause 1(d).

Those of us who have some respect for legislation and have had some experience as legislators know that the integrity of a piece of legislation is only as good as the integrity of its definition. If, for example, you get circular definitions in a piece of legislation, such as you do in the Funeral Services Act, you get serious cases that go to the Supreme Court of Canada before they can be decided. Often that is costly for the people involved and simply shows the sloppiness of the interpretation section of the legislation.

I really worry because we have a piece of legislation that is brought in by one minister, the Treasurer (Mr. F. S. Miller), while we have nominally, as the minister responsible, the Minister of Consumer and Commercial Relations (Mr. Elgie), but most of the substance of the bill is in part II, which deals with restraint of compensation packages. There are references in part II to the Labour Relations Act and other acts that come under his jurisdiction, yet we have no reference to the Minister of Labour (Mr. Ramsay). We have no assigned responsibility to the Minister of Labour.

Frankly, I find it quite appalling that we would have a piece of legislation that gives no acknowledgement in its definition section of either the removal of the responsibilities of the Minister of Labour or of the additional responsibilities to him.

That has been one of the frustrations that this party has faced in dealing with this legislation in that we know from the Premier's (Mr. Davis) statements, from the Treasurer's statements and replies in the House, and from reading the further sections of the bill that the limit, the clamp, the limitations are put on workers, on the compensation package that workers in the public sector receive. To do that, and to do that in a bill that does not at least pay a passing reference to the Minister of Labour, is in my view bad legislation. It is badly designed, badly wrought, badly defined.

If you will permit me a moment or two, it has always been my assumption in the British parliamentary system that the words Lieutenant Governor in Council were a polite fiction. That has always been the assumption we make when we pass laws. We know that what we really mean is there is the cabinet. Usually that cabinet is elected and selected by the Premier.

Usually when you encounter legislation, the Lieutenant Governor in Council makes appointments upon the recommendation of a specific minister. That is usually the pattern that is followed. For example, the myriad of boards, agencies and commissions that fall under the jurisdiction of the Minister of Health (Mr. Grossman) is usually appointed upon the recommendation of that minister. The same thing applies under the Minister of Natural Resources (Mr. Pope) and, to the best of my recollection, that applies in most of the statutes we have.

Here in this piece of legislation, when we get down to part I and the description of the Inflation Restraint Board, there is no reference to any minister on recommendations. In other words, the board is appointed directly by the cabinet. That seems, on the face of it, to be not unusual and not out of whack, not out of sync, so to speak, with practice, except I noticed when reading the bill that later on in the legislation the Lieutenant Governor in Council may remove a member of the Inflation Restraint Board, the income restraint board, the arbitrary powers board or whatever you want to call it.

Yet we do not know who would be making the recommendation that that person be removed? Is it the Premier or the Lieutenant Governor? If it were actually the Lieutenant Governor, it would be certainly a reversal and a reversion in legislative terms of a couple of centuries.

Mr. Cooke: Morley Rosenberg.

Mr. Foulds: I find the legislation weak. I find the interpretation section weak and I find it does not relate to the subsequent sections. That is one of the things that really bothers me, that in this interpretation section, clause 1(b), we have a reference only to the subsequent clauses that fall under part III of the bill, as I recollect. That is the section that has to do with the so-called price restraint or administered prices. I think that is a very major flaw in the bill and in its drafting. I mean that most sincerely.

The bill we have before us, in principle, we feel is flawed, as you well know. We have argued that on second reading and we have even managed to argue that occasionally in this committee. However, I feel very strongly about it, and the reason I object to this definition section is that I believe the bill itself is flawed in its drafting. It fails to be even-handed in its definitions. It fails to acknowledge where the power lies. In fact, there is almost an obfuscation of where the power lies.

At some point you have to say to yourself, who is the elected minister that makes the recommendations to the Lieutenant Governor? Who is the elected minister if it is not the Minister of Labour when it comes to wages, and it clearly is not the Minister of Consumer and Commercial Relations. The other ministry that is referred to in the bill is the Management Board of Cabinet which is given a passing reference. So it must be the Premier. It means the Premier, then it should say so, or if it means the Treasurer, it should say so.

My suggestion, although I do not have a formal amendment yet, is that we have in this section that minister means (1) the Premier, (2) the Treasurer, (3) the Minister of Labour and (4) the Minister of Consumer and Commercial Relations. That way we could cover all our options, but at the present time the bill is weak because its direct reference to a minister has only to do with the minister that has to deal with one third of the bill. I cannot, in all conscience, either support this section or recommend to any of my colleagues that they support this section.

If the bill is to work even on its own terms, and frankly I hope it does not, I believe that this section is seriously flawed and therefore needs repair.

Mr. Chairman: Let us go to Mr. Cooke. I will move Mr. Renwick on down to the bottom of the list.

Mr. Cooke: I think he will be returning shortly. Are we going to be having present some time this morning the parliamentary assistant or someone--

Mr. Chairman: The parliamentary assistant is on his way. My office received a telephone call at about 9.45 that he was a bit hung up--

Mr. Foulds: I know that.

Mr. Chairman:--and was on his way but would be a bit late.

Mr. Cooke: They are all philosophical hangups.

Mr. Chairman: I am making inquiries as to that. As you know, the Treasurer is in cabinet, and we have one of the solicitors with us from the office of legal services from the Treasury. Perhaps you could wait for just a very few minutes, and one of them will undoubtedly be here, and Ms. Bass will undoubtedly be taking down your comments, those worthy comments that you have to share with the Treasurer.

Mr. Elston: Don't get writer's cramp.

Mr. Cooke: I am sure that every comment we have made in this committee is being noted in more ways than one. I must apologize for missing last night's committee meeting. I understand, as usual, it was very interesting but I was preoccupied in Windsor, with my colleague from Windsor-Sandwich. I do want to make a few comments about clause 1(b), and I believe we are speaking on the amendment.

Mr. Chairman: Might I mention right now for the record that the parliamentary assistant has come in and will be snaring with you your thoughts and responses.

Mr. Elston: Congratulations, Mr. Chairman.

Mr. Cooke: We might also note, Mr. Chairman, that the parliamentary assistant is getting his marching orders from the executive assistant to the Treasurer.

Mr. Foulds: He looks either hung up or hung over.

Mr. Wrye: May we also note for the record that the time is now 10.29 a.m.? This committee does sit at 10 o'clock.

He looks better than he did the other day when he showed up at 11:45 a.m..

Mr. Cooke: The parliamentary assistant may even want to rise on a point of privilege since the Chairman said he had a lot of hangups.

Mr. Jones: This committee could do it to you.

Mr. Cooke: We are speaking on the amendment to clause 1(b), right?

Mr. Chairman: Mr. Mackenzie's amending motion to 1(b), to strike out 1(b).

Mr. Cooke: I have just a few comments. I will obviously be supporting the amendment to clause 1(b) of the bill. The reason is that this definition section or interpretation section is the continuation of the fraud of Bill 179. Therefore, by putting forward these amendments, by having a detailed debate, we have the opportunity to put forward the compelling arguments that this bill is a fraud. We have suggested that we will be putting forward a plan to amend this bill to control inflation. That is the stated goal of this bill, although not the reality of this bill.

10:30 a.m.

In terms of controlling inflation, the minister that has to take the primary responsibility for that is the Minister of Consumer and Commercial Relations or his ministry. Time and time again unjustified price increases have been brought to the attention of the Legislature through our consumer critic Mr. Swart.

I think there were very compelling arguments put forward in this committee that pointed out that inflation is really not going to be controlled by controlling the wages of 500,000 public servants because inflation is the increase of prices. We have seen that through testimony in front of this committee.

Just for the benefit of the member for Sudbury East (Mr. Martel), we are on the amendment to clause 1(b).

Mr. Martel: The minister is here once more.

Mr. Cooke: You should not raise a white anything. He is colour blind. When he sees white, he really sees red, or blue, in your case, Mr. Jones.

I will be supporting the amendment. I think the compelling arguments that have been put forward before this committee have been that wages do follow inflation and there are attempts made to keep up with it but that contracts in the public sector and in the private sector have fallen behind.

I am sorry the member for Chatham-Kent (Mr. Watson) has left, but I was going to mention the other night that I think the Conservative and Liberal members of this committee have to ask themselves if the public servants, the teachers in their ridings and the garbage collectors are overpaid at this particular time. Have their demands been excessive in the last number of years?

The member for Windsor-Sandwich knows the workers in the Canadian Union of Public Employees in the city of Windsor over the last few years have settled well below the rate of inflation in their settlements. They have accepted the realities of the economic situation and now they are going to be double penalized with this particular legislation. On the price side, which clause 1(b) deals with--

Mr. Wrye: One per cent.

Mr. Cooke: One per cent what?

Mr. Wrye: That will be their penalty.

Mr. Cooke: The penalty will be considerably more than one per cent if you take into account the destruction of the democratic rights they have. That is the basic argument.

Mr. Ruston: Now he is changing his argument.

Mr. Cooke: That is the basic argument of this amendment. There are economic arguments to oppose this bill on and there are democratic rights, and this bill fails on both of them. The most compelling argument in a free society has to be that of free collective bargaining and free democratic rights. Pardon me, Mr. Ruston? Maybe Mr. Ruston wants the floor.

Mr. Wrye: I would love to hear his arguments.

Mr. Ruston: In most socialistic countries you do not have too many freedoms.

Mr. Cooke: My party is not in power in Quebec.

Mr. Chairman: You carry on, Mr. Cooke. Just disregard the interjections.

Mr. Wrye: We're his friends.

Mr. Elston: Philosophically, I can't.

Mr. Cooke: Let's look at the price side and see what has happened over the last number of years. Since January 1980 to December 1981, the Ontario gasoline tax--something which is a price people have to pay--is up by 14.3 per cent and federal taxes are up 4.5 per cent. The total price of gasoline to the consumer is up 20.2 per cent, and that is a price the government can have impact on.

Ontario health insurance plan fees, which this government has a little bit to do with, are up 17 per cent. The milk price is up 10 to 12 per cent, and we have seen arguments that have been put forward at the Ontario Federation of Agriculture convention, where the price spread is widening between what the farmer is getting for his goods and what the consumer is paying, or what the retail or wholesale are charging, so the farmer is getting less and less of the take.

It is not the farmer that is getting huge increases, it is the wholesaler, the retailer and the American-controlled food processors in our province. Natural gas prices are up 17.8 per cent. Down our way we hear occasionally from the former Duke of Kent, Darcy McKeough, and we see the kinds of increases he is talking about for Union Gas Ltd. and the deception he has put forward in the various newspapers in the province saying he is only going to ask for a four per cent increase, when in reality four per cent means 20 per cent.

Those things are all going to be increased. Chronic care copayment fees are up 12 per cent. We know the problems with rents, and we understand very clearly that the Minister of Consumer and Commercial Relations (Mr. Elgie) is not really taking that problem seriously. He is looking for a political solution, but he is not looking for a real solution. Motor vehicle licence fees in northern Ontario are up 140 per cent. That is something this government has some input on.

Then we go back to the wage side and see the inequities that exist. This legislation is going to provide for five per cent increases to nursing home workers. We raised the case in the Legislature of the Ark Eden Nursing Home where the workers are getting just barely above minimum wage and they are going to be restricted to five per cent. The same per diem, the OHIP fees that are paid to the nursing home operators, will go to that nursing home operator where the workers are paid considerably higher, so this legislation will in effect provide for massive increases in profits to those nursing home operators.

The Treasurer said in the House on September 23: "I believe our action will help fight against inflation in three ways and it will decrease government demands on the capital markets, to ease the pressure on interest rates." The reality is that this bill is a fraud and the only purpose of bringing this bill in is to attempt to lower the government deficit rather than deal with the real problems in the economy.

When the Premier talks in the Legislature about lowering the property taxes in the city of Brampton by penalizing teachers, what he is really saying is we are going to have teachers pay increased property taxes through wage controls. That is what it means. That is one of the very clear inequities in this legislation.

There is nothing in this bill that will control prices. Dr. Elgie knows that, and if the government was going to be fair and honest about this bill, it would simply call it something like the arbitrary powers board. It would not continue to have the fraud of having anything here referring to the Minister of Consumer and Commercial Relations at all.

There is no intention by this government to control prices. Everything provides for pass-through. It is a fraud, and one of the ways of clarifying this legislation is by withdrawing or deleting clause 1(b). Then we can attempt to be honest with the people of Ontario and say this is a wage control bill, which has nothing to do with inflation and has nothing to do with prices.

Mr. Renwick: I would like to speak briefly on this particular amendment to delete clause 1(b) of the bill. I do so for a reason which really could be considered an important drafting change in the bill. If any member of this committee were to look at the bill, he would find there is no reference to the minister in part I or in part II of the bill.

Part I and part II of the bill comprise the first 25 sections of the bill up to page 16. The only place the minister is referred to in any substantive sense is in part III of the bill. There is a minor reference to the minister in part IV, which comprises one section, section 33, and there is another minor reference to the minister in part V of the bill, which comprises four sections, all of which in a sense could be called formal provisions. In the four sections of part V, under the title General, there is one reference to the minister with respect to the annual report to be received by him.

10:40 a.m.

I think it is seriously misleading--as a good portion of the bill is--to deal with the definition of minister in section 1 of the bill. It would appear to indicate a responsibility for the bill which is not in the bill, other than with respect to the substance of part III.

It may well be that had all of the definitions been contained in that part of the bill, one could have some logical justification for the reference and the definition. It may be that all of the members are quite aware of the bill. Perhaps it has been corrected in some other editions of the bill, but part III in the bill I have was originally by mistake called part II, Administered Prices.

In part III of the bill there is a definition section, and the definition of minister, if he is responsible for part III and that is all he is responsible for, should be in that proper, appropriate and useful place. There is no point in a bill such as this to confuse people by having a definition of minister when the term "minister" does not appear until we come to part III, and the first reference to the minister is in section 27 of the bill.

I believe there is a continuous use of this bill to misrepresent the nature of it, and this is one other element with respect to that misrepresentation. It is quite unnecessary to have that minister designated in this part of the bill. It does a disservice to those who have to make use of the bill, and in a very real sense it diverts attention from what is the essential part of the bill, and that is the disastrous parts of the bill, namely, parts I and II, particularly part II.

I have no wish to pursue the amendment at any greater length; it is a simple amendment, it is to delete clause 1(b) of the bill because it has no place in section 1 of the bill and should be in repeated in part III.

Then when we come to part IV because it just happens to be that the term "minister" is repeated twice in part IV and twice in part V in very formal senses of the term. Either pick up the references to part IV and V when the government moves the amendment to section 26 or add the term "minister" to the definition section in section 26. Do not clutter this bill up with an interpretation section in part III where one then has to refer back to section 1 of the bill to find out who this person is who has these responsibilities.

In part III, with that amendment, one could, if it was felt necessary, then state in part III and in parts IV and V: "'Minister' means the Minister of Consumer and Commercial Relations." The minister has nothing whatsoever to do with restraint of compensation in the public sector of Ontario--absolutely nothing whatsoever. To mislead people, to cause unnecessary confusion, simply compounds the cute form of drafting which has taken place in this bill to disguise the true intent and purpose of the bill. I have no further comments.

Mr. Wrye: I will be brief. I am already beginning to feel that I probably did not miss a whole lot last night. It seems to me I left this place on Thursday and we are just about where we were when I left at 10.30 p.m. on Thursday. I want to say on behalf of my party, very briefly, we will oppose this amendment.

It is very clear what the amendment is designed to do, that is, to lengthen the debate, I think it is clear why "minister" is in this section. It is because there are five parts to the bill and the use of the term "minister," meaning the Minister of Consumer and Commercial Relations, is used in parts III, IV and V. It seems to me it would be to clutter up the bill to simply redefine the definition of the word "minister" in each of the three parts.

I do not have any problem and I do not know that any of the groups that came before us, quite frankly, had any problem in understanding that the word "minister" was not used in parts I and II and that the Minister of Consumer and Commercial Relations has nothing to do with either the Inflation Restraint Board or with the compensation restraint part of this overall package.

I think it would just add unnecessary confusion to drop the definition at this section, and when we get to parts III, IV and V to have to redefine the word "minister." I think we are all clear that the Minister of Consumer and Commercial Relations has carriage only over the second part of the legislation, which is monitoring of inflationary conditions in the economy of the province. As such, when I read the bill it was very clear to me why it was defined here. On behalf of my party, I would indicate that we are not prepared to support this amendment.

Mr. Chairman: There being no further speakers, shall clause 1(b) stand as part of the bill?

Mr. Renwick: I would like to have a recorded vote, if I may.

Mr. Chairman: I am sorry, that was not the question. Where we are going is we are going to vote on the amendment.

Mr. Renwick: I thought you were calling for the vote on the amendment.

Mr. Chairman: I was jumping; my mind was jumping. I back off. You are correct. I am calling for a vote on Mr. Mackenzie's motion deleting clause 1(b).

Mr. Renwick: I would request a recorded vote of the members. I think we would need 20 minutes.

Mr. Chairman: Mr. Renwick has asked not only for a recorded vote but also for 20 minutes to gather the members. We are starting the recess at 10:49 a.m., so 20 minutes will 11:09 a.m..

The committee recessed for 20 minutes.

11:09 a.m.

Mr. Chairman: It is time to take the vote on Mr. Mackenzie's motion that section 1 of the bill be amended by striking out clause 1(b). Will you reply to the clerk as he calls your name.

The committee divided on Mr. Mackenzie's motion, which was negatived on the following vote:

Ayes

Cooke, Renwick.

Nays

Andrewes, Elston, Eves, Gordon, Mitchell, Ruston,
Villeneuve, Watson, Wrye.

Ayes, 9; nays 2.

Mr. Chairman: Shall clause 1(b) stand as part of the bill? Do you wish a recorded vote? As usual with a recorded vote, will you please reply to the clerk as he calls your name?

The committee divided on the motion that clause 1(b) stand as part of the bill, which was agreed to on the following vote:

Ayes

Andrewes, Elston, Eves, Gordon, Mitchell, Ruston,
Villeneuve, Watson, Wrye.

Nays

Cooke, Renwick.

Ayes, 9; nays, 2.

Mr. Chairman: Any comments or questions on clauses 1(c) or (d)?

Mr. Cooke move that section 1 of the bill be amended by striking out clause 1(c).

Interjections.

Mr. Chairman: Order. Mr. Cooke, do you wish to explain your amending motion, please?

Interjections.

Mr. Cooke: I wasn't embarrassed until you came into the committee. Now I am embarrassed. Even though you are a member of another party, I am still embarrassed.

Mr. Gordon: You had a hard time getting that out of your mouth. You struggled over those words.

Mr. Chairman: Order. Mr. Cooke.

Mr. Cooke: Are you calling me to order?

Mr. Chairman: No. I am calling the others to order. You have the floor. If you wish to speak, speak now.

Mr. Cooke: It will just take a couple of moments to speak on this motion. I would have thought that when regulations are mentioned, and this section defines the regulations, perhaps we could have those regulations tabled. I just wondered, before I make any comments, if Mr. Jones or any member of the ministry staff could indicate whether they would be prepared to table the regulations with us today.

Mr. Jones: No, I don't think that is possible, Mr. Cooke.

Mr. Cooke: How far along is the drafting of the regulations?

Mr. Jones: We don't have that with us.

Mr. Cooke: You don't know how far along they are? They have started drafting them. I remember when we did the sales tax, they had not even started drafting the regulations.

Mr. Jones: Oh, no, they certainly have, and the Treasurer was alluding to them the other night, that they were in draft but we do not have them in the completed form.

Mr. Cooke: Would it be possible that we could have the draft of the regulations tabled with the committee?

Mr. Jones: We will check on that for you, Mr. Cooke. We are not prepared to offer that today.

Mr. Cooke: I gather that you are not able to commit the Treasurer.

Mr. Jones: That is safe to say. Maybe staff would just give us a hand on that.

Ms. Bass: The regulations that will be made under this bill will include regulations that will be made throughout the course of the program's operation. It would not be feasible to table them to this committee.

Mr. Cooke: What do you mean? Obviously there is going to be a set of regulations that are attached to the bill at some point or are available. Then what you are saying is that regulations will be added or changed or amended as it becomes necessary.

Ms. Bass: For example, if you look at the regulation-making section of the bill, section 25, there are a variety of types of regulations. Some of the regulations will be prepared very shortly. There will be regulations terminating the application of the act to particular groups, and that activity will carry on throughout the length of the program's operation. So it would not be possible, in the nature of the case, to table all of the regulations.

Mr. Cooke: I always find that. I found it incredibly difficult in the spring to look at the sales tax bill because the regulations usually clarify the bill to such an extent or really make the bill to such an extent that it is impossible to make a judgment on the bill and have a full debate, a clear debate on the bill, until we have seen the regulations.

Many of the pieces of legislation that come before this legislature give so much power to cabinet to draft regulations and exclude the members of the Legislature from that process and, of course, regulations have exactly the same authority in law as the bill does itself, once the cabinet has been granted that power. I think members of the Legislature are somewhat negligent when they give so much regulation-granting power to the cabinet.

Mr. Wrye: Mr. Chairman, on a point of order: Perhaps, by way of expediting this, I can suggest to the mover of the motion, since I have a sense of where he is coming from on this amendment, that what he might be willing to do is to change his motion to stand down this clause of section 1 until our clause by clause, and that that be done with instructions--I gather counsel is suggesting that some of the regulations to be brought in as parts of the act terminate for each individual employee group--that we stand it down so that we get the overview regulations and that we consider the amendment you may wish to put with the regulations.

I would ask the mover if he would be willing to move that the section be held up until we have gone through clause by clause on this bill.

Mr. Cooke: Perhaps the parliamentary assistant would indicate to the members of the committee whether, if we put a motion forward and it was approved, requesting the regulations along the lines of Mr. Wrye's comments, he thinks that might be acceptable. Maybe the ministry staff could indicate whether most of the regulations would be available so that would even be feasible.

Mr. Jones: I don't think we are prepared to give you that undertaking this morning, Mr. Cooke. You are bringing up an old argument--we have heard it before in this committee--that you would like regulations to be part of the legislative process.

There is a process, and I am sure you are familiar with it; many of the government members in the room here today serve on a regulations committee as part of that process, an extension of the executive council process. The regulations receive the review and the input of many of the members of this legislative assembly, and as Mr. Wrye says, he knows where you're coming from. I suppose there are two areas from which we would see you coming this morning.

All politeness aside, and I am sorry to have to say it again--forgetting your argument and I appreciate that it is legitimate that you would like to have a look at the regulations and especially those that are prepared at this time--we are into a stalling tactic. It is still another silly amendment, I have to say to you with all due respect, sir.

I know my colleagues may feel differently and the Treasurer may feel differently; I will certainly share your query with him. But here we are again faced with another motion that not just our party feels has been put as a stalling tactic. It really doesn't lay the ground and prepare the people for a conciliatory, serious kind of response, when you are making requests on one hand, you are really chewing up some pretty valuable time of a committee that is here to do another job.

There have been amendments before, not yet from your party I don't believe, but we have had them from the government and from the Liberal Party, and we were ready to get on with those. We have things such as the two we have just addressed ourselves to, taking the board out of here--we have heard all the debate--and the Minister of Consumer and Commercial Relations. In response I would say I am not prepared to make that undertaking.

Mr. Cooke: Mr. Chairman, obviously I will be supporting my motion and all Mr. Jones has done is make the argument that this motion should be passed. What he is saying is that he expects members of this committee to approve a section that sets us up for allowing the government to draft the regulations, approve the regulations, which really can be the guts of the bill. We are supposed to approve this kind of legislation and these kinds of sections and subsections of the bill without even knowing what the regulations are going to say.

I think it would be irresponsible for an opposition party to approve this clause of the bill without a commitment that we are going to see the regulations. I gather from Mr. Wrye's comments that he agrees and therefore that his colleagues will at least be supporting this amendment by our party.

Mr. Jones: Just for the record, Mr. Chairman, I think it would be helpful that people be aware, of course, that certainly the bill sets out what those regulations will be and what they will deal with. What they will deal with is set out in section 25. If he disagrees with them, he should be putting motions to that.

11:20 a.m.

Mr. Renwick: Mr. Chairman, I neglected earlier to say that I felt badly, on reflection, that I had been intemperate in my remarks to you last night. I recognize the error I fell into.

When you referred to the 15 minutes, I thought in some way you were referring to the rule dealing with a request for a recorded vote at that time. By way of explanation and not by way of excuse, I was then startled when I realized that you were dealing with grave disorder in the committee, because I certainly didn't sense there was grave disorder in the committee.

I have lived with the House leader of the New Democratic Party long enough to know that to call his consistent repetition of a particular phrase, such as "Point of order, point of order," grave disorder was, I felt--perhaps it is only because Mr. Cooke and I are accustomed to our House leader that we don't consider that grave disorder.

I do apologize; my remarks were intemperate.

Mr. Chairman: No apology is required.

Mr. Renwick: They are almost verging on abject, but not quite.

Mr. Chairman: That was just comment in the heat of debate.

Mr. Renwick: I am usually listening more closely than that.

Mr. Chairman: Do you have other comments to make?

Mr. Renwick: Yes, I do. I want to register, as strongly as I can, my objection to what the parliamentary assistant to the minister has said about this amendment.

I think that part of the frustration we are feeling in this committee is our incapacity to get across to the members of the committee, let alone to the parliamentary assistant, and certainly if he is reporting to the minister the extent and degree of the misrepresentation of our amendments to him would be total if the parliamentary assistant believes that this amendment is, in any way, connected with stalling, is not a matter of substance and is not a matter of grave concern to us.

It is a matter of grave concern, and I want to try to illustrate that to the members of the committee and to the parliamentary assistant, and I trust it will get through to the minister since he is the one who will be dealing with this bill in theory in clause by clause, although he has not deigned to appear for any of the discussion and I doubt very much whether he takes much time to read the points we make.

This definition is part and parcel again of the way in which there is a complete misrepresentation inherent in the bill by reason of the rigidly structured portion of the bill dealing with public sector compensation restraint and the loose, casual, ineffectual structure of part III dealing with administered prices.

So far as I can tell by reading part III, and I don't believe I have missed anything in part III, there is but one reference to regulations and that is in section 32 which states, "The Lieutenant Governor in Council may make regulations further defining the terms 'public agency' and 'public regulatory agency.'"

Let me refer then to the definition of public agency and public regulatory agency, which are defined in such omnibus terms that no member of the public would be able to say, except by guesswork, what a public agency was or what a public regulatory agency was. There is one exception. Public regulatory agency includes the term "ministry" but public agency doesn't include the term "ministry."

I don't know why that is so. Perhaps somewhere, some day, somebody will explain that subtle point of draftsmanship that leaves the word "ministry" out of the definition of public agency but includes it under the definition of public regulatory agency.

I want to say to anyone on the committee who happens to be either interested or listening to it, or who may read these remarks about this, that if one looks at part III and looks at the definition of public agency and the definition of public regulatory agency, and then looks at something called the power we are asked to grant the Lieutenant Governor in Council to make regulations further defining the terms "public agency" and "public regulatory agency," then it is meaningless. There is no member of the public in Ontario who could, except by guessing, list any of the public agencies or public regulatory agencies of the province.

The minister is supposed--that is the minister, when you get to section 26, that you look back to section 1 to find out who that is, because by the time you got to section 26, you have forgotten that in section 1 we defined minister as Consumer and Commercial Relations, despite the capacity of the member for Windsor-Sandwich (Mr. Wrye) to think it doesn't matter where the word "minister" comes in, or to make the fatuous argument just a few minutes ago that the people making public submissions about this bill didn't draw that to our attention. We were elected here to produce intelligible and sensible laws and it is not the people who make public submissions about the iniquity of a bill who are required to make that kind of--

Mr. Elston: Are you suggesting that we don't listen to them and consider their--

Mr. Renwick: I am not saying anything of the kind and don't dare distort what I am saying. You know as well as I do what I am saying is that the fatuous remark of your colleague that nobody said to us, "'Minister' shouldn't be in section 1", that is our job. This is known as clause-by-clause discussion of the bill; it is not a matter with which they are involved.

I am going to come back to the point that part III is totally deficient with respect to its ability to communicate to the public what are the public agencies or the public regulatory agencies the minister is supposed to deal with with respect to prices. No one can tell. There is nothing in the bill--

Mr. Jones: Would you like us to take an attempt at that for you?

Mr. Renwick: I am going to take an attempt myself. I think I've got them all here and I want to know which ones are the list because you will notice that the regulatory power is not to add to any list, it's simply to further define the terms "public agency" and "public regulatory agency."

I don't know what that means. That, to me, means that people haven't done their homework, that they want us to give them authority so that, if they haven't got it right this time, they can do it by regulation later and get it right.

That is wrong with respect to legislation. Those who introduce legislation must say what they intend to cover in it, and say so clearly and distinctly, and do not produce for us omnibus definitions which are meaningless gobbledegook, and then provide that they can further define the musn of the generalized definition because they might have missed something.

I want you to understand that that is what we are being asked to do by defining the term "regulation," so far as part III is concerned, in the amendment which my colleague has moved to delete it. I think anybody on the committee will understand what I have said and I do not need to emphasize it in this particular direction of my comments.

11:30 a.m.

I do, however, want to emphasize it very clearly by contrast with what has been done in part II, with respect to the delineation of those who are covered by part II. This is the punishment part, the strict part that appeals to the Tory government mind. This is the part that says, "Here we will be able clearly to define and specify who is to be covered by part II."

If you look at one of the important elements of regulation to which we are asked to consent, in subsection 6(1) of the bill, you will notice, "This part applies to the compensation plans of employees employed in or by." Then there is clause 6(1)(a), which is an attempt to be specific and in detail; then (b), which is an attempt to be specific and in detail; then (c), which is an attempt to be specific and in detail; and then (d), which is an attempt to be specific and in detail.

It is not by regulation; it is right in the statute. In clause 6(1)(e), right in the statute, there is an attempt to be specific; (f), an attempt to be specific; (g), an attempt to be specific; (h), an attempt to be specific; (i), an attempt to be specific, except for a point I will come to because (i) is a catch-all. At least you have made an effort, misguided but honest, to specify which compensation plans of which employees employed in what organizations of government will be subject to having their contracts broken. You have gone into great detail in the bill, great specificity in the bill.

I would assume that it would be possible, by using clauses (a), (b), (c), (d), (e), (f), (g) and (h) of subsection 6(1), to get a pretty good handle on the ambit of the penalty imposed on the public sector operation. Then what do you have? You have the catch-all in clause 6(1)(i), "any authority, board, commission, corporation, office, person or organization of persons, or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons, set out in the schedule."

Then we look at the schedule and what do you find under the schedule? We find that the schedule occupies, in my bill, pages 21 to 24 and a small portion of page 25, all in small print, again listing with tremendous specificity each and every kind of body which is going to be subject to having their contracts broken by

this bill. They are there. Then we have a government with the temerity to flip before us a bill which says, "If we have missed any or added to the schedule by regulations."

I want to say, as a member of the assembly, it is an affront to put that kind of legislation in front of us. Either you know whom you are going to penalize by breaking their contracts or you do not know. You have made a very good stab at attempting to indicate the ambit of it and you have put it in the bill. But you certainly do not have, after the care and attention--and I can imagine the care and attention what went to compiling, not only the more generalized headings, itemized in considerable detail in subsection 6(1), but the work which went into itemizing and setting out all the organizations that are listed in the schedule to the bill.

Now you are saying to us that it is essential that you be able to add, by way of regulation, other authorities, boards, commissions, corporations, offices, persons or organizations of persons or any class of authorities, boards, commissions, corporations, offices, persons or organizations of persons. You want us to give you authority to add some more. You do not need it and you should not have it, and if you cannot dream it up, you should not have authority by way of regulation to add that kind of essential, substantial part of the punishment inflicted by this bill by way of regulation.

A member of the public is entitled to know: "Do I work for an organization which is subject to subsection 6(1)? I am entitled to know by looking today at the bill if, as and when it receives royal assent. I am not expected to peruse the Ontario Gazette on each Saturday or when it comes out on Monday, to find out whether my organization has been added by regulation."

I think that is an affront to the administrative law system. I think it is wrong. I think that it is part of the so-called bureaucratic theory that administrative efficiency permits them to ride untrammelled over people's rights.

If you were a member of the public and you wanted to know whether or not you were covered by this bill, if you went through this and you made what inquiries the statute required and were advised that, with great care and attention, you were not one of the organizations which was covered in the itemized headings in subsection 6(1) that I have referred to at some length, nor were you covered in the schedule, what use would it be to you, sir, to find that you must, every Monday, make certain you get a copy of the Ontario Gazette to find out whether or not your organization has been added?

I say it is wrong and I say it is improper. I think I am speaking for the people of Riverdale about this kind of technicality in the bill. I object to it, and strenuously. I certainly will not accept it at any occasion that a government should bring to itself, disguised as administrative efficiency, the catch-all clause which appears at the end of clause 6(1)(i).

I should like the Treasurer to take my comments seriously. I should like him to tell me what excuse there is for doing that to people in Ontario. Whatever may be private to people in Ontario, it is something to do with their private compensation. If my private compensation is going to be limited by this bill because of some misguided sense that I am contributing to inflation, then I, as a person living on Dickens or Thackeray Street in the riding of Riverdale, am entitled to be able to say, "Does the bill cover me or does it not?" and not be covered by some bureaucrat sitting down and saying: "Oh my God, we forgot that one. Let us add it by regulation." If you cannot do it properly, you have no right to do it by regulation.

11:40 a.m.

I do not often refer to it--I used to think that the guy was an old foggy and was not living with the times--but one of the books that came out in England, when administrative law started to ramble through with these immense regulations which no one can find, and if they can find them cannot read them because they are in unintelligible jargon, was by Lord Hewart, Chief Justice of England. This book, written in the late 1920s or early 1930s, was called *The New Despotism*. That is what this is.

I thought, "My, Lord Hewart, you were brought up in the Victorian age and you are not quite with it and you must recognize that government requires these powers to pass administrative rules and that no legislature can ever encompass all of the things which have to be done." This is an improper, illicit and unwise use of the regulatory power in that concern. I say to the Treasurer, "How do you do it in part II and not do it in part III? How do you have the nerve to do it in part II and not do it in part III?"

Let me assume that my constituent living on Dickens or Thackeray Street in the riding of Riverdale is concerned because in the supermarket he is finding he is buying some product and his money is not going quite as far, or that the Ontario Hydro rates are going up and he is finding great difficulty in meeting the enhanced cost of those agencies. He says: "Oh, well, the government is looking after that for us. The latter-day remnant of the Family Compact is looking after us in its paternal way. They have passed a bill which is going to deal with this matter because they are going to do something. I look at the title to the bill and it says 'monitoring inflationary conditions in the economy of the province.'

"Well," the person says, "An Act respecting the Restraint of Compensation in the Public Sector of Ontario... I am a member of the Ontario Public Service Employees Union, so I guess I am covered by that. But that is all right, because they are also going to look after the prices part of inflationary conditions, and that is what father does for us. He cuts us back a little here, but he gives us a little pat on the back here.

"So I am going to look in this bill to find out which prices are going to be monitored by the government. I look under part IV, which says, 'Private sector monitoring,' and it says that the board shall 'monitor the pattern of changes in prices and wages in

the private sector of the economy of Ontario generally and report its findings to the minister from time to time as required by the minister." I do not know what he is requiring; I guess he can ask them to report to him quarterly, as that seems to be the minister's power. The board is to do the monitoring.

Then the board shall, "through such methods as it considers appropriate, promote public understanding or the inflationary process and the relationships between productivity, costs and prices." I say, "That is a great help to me when I go snopping on Saturday. That really is. I mean, the board is monitoring these prices, and if I look carefully down one or those aisles, there is a guy skulking around in the corner down there. He looks like a government bureaucrat. I guess he is monitoring these prices here for us."

Mr. Wrye: Is he the one with the trench coat?

Mr. Renwick: Yes, probably the trench coat and probably the dark glasses.

"So I have a sense of great confidence that that is helping me a lot. Then I find that through such methods as that he is 'going to promote public understanding--' on, that is really helpful. Maybe I shall get a series of ads on television telling me 'That is the way the world is, Jim. You get less money and the prices are going up, but I want you to understand why it is all happening to you because I do not want to upset you; as long as you understand that you are gradually going to be worse off under this, you can accept it. It is when you cannot understand it that you cannot accept it."

The person on Dickens or Thackeray Street in my riding will say: "Well that is reasonable, and then the relationship between productivity, costs and prices--oh, I now understand, I am not working hard enough, and I am already getting too much money. Thank God, they cut it back because that is one of the costs. I think what I will do is go in in the morning and say, 'Well, look, you have only cut me down to five per cent. I should like to be cut down maybe to minus five per cent next year, so that I am contributing my share, so that I have a real understanding of the inflationary process.'"

"I am going to really work harder. I am going to say to them, 'Boy, I am going to be like some ministers of the crown. I am going to get to work at six in the morning and work all day and then sit in the evening signing the letters that the bureaucrats have produced for me during the day so I will shall not have any time to think or anything. But I am going to work really hard. I am going to take a further voluntary cut in my pay, and then the prices will continue to rise, but I shall not have to buy so many of them because I have not got enough money to do it, and I do not have enough time to go shopping anyway because I am working longer hours to increase my productivity.'"

So my constituent is reassured by the latter-day Family Compact that everything is fine. Father Bill has looked after things in the private sector, so he is not worrying about that any more. He is now going to look at the public sector. There is no

regulatory section in part III. They are not going to publish anything to indicate any public information, even in the Ontario Gazette, that well-read weekly newspaper of this province. There is no regulatory power requiring them to publish anything, but they have regulatory power elsewhere. He says, "Why did they leave it out of there, I wonder?"

Then he comes to the part of the bill which is missed out in its title, because restraint of compensation in the public sector of Ontario is under part II. Monitoring inflationary conditions in the economy of the province, because it is a private sector free-market economy, is under part IV.

He says: "I wonder why they left that out of the title--I mean the title is long enough--why didn't they make it longer? Why didn't they say that the title of the bill would be An act respecting the restraint of compensation in the public sector of Ontario--from part II--and respecting the control of administered prices of public agencies and public regulatory agencies in Ontario, which is part III, and the monitoring of inflationary conditions in the province, under part IV? What is in a few words? Why not make the title a little bit longer? Why not have it reflect exactly what is happening?"

The bill is totally silent about part III. So now he wants to know whether or not the government is looking after him with respect to the prices he is paying for something called "an administered price" that is a price user-charger fee charged by a public agency and a price user-charger fee required, permitted or authorized by a public regulatory agency to be charged by another person.

He would look at that and say: "I guess they are going to control my OHIP premiums. That must be right. That is one of the things the government seems to control. To my astonishment, having read 'administered price,' having read the term 'price increase,' having read the Treasurer's budget last spring, having read about the increase in doctors' fees which was very kindly negotiated recently on my behalf by another member of the family, Dr. Grossman, having read all that and recognizing that it is a public agency--well, it is a public medicare scheme--I believe there is something called the Ontario health insurance plan that I am a member of."

11:50 a.m.

"I just got a bill the other day because I pay my aged mother's bill, who has not quite yet turned 65. I have to pay hers direct because she lives alone. I got the bill which says \$324 for six months' coverage. Thank God that price has stabilized. I say to myself, 'I'll just tear up the bill when it comes in.' No, I'm a little more cautious than that. Why are they still sending me the bill for this increased price the Treasurer is charging? I had better go and ask and then I'm told it's not covered."

This bill we are being asked to pass is supposed to speak to my constituents on Dickens and Thackeray Streets in the riding of Riverdale or on the equivalent street in each of the constituencies throughout Ontario. Nobody can tell you anything about what's covered.

Even if you could find about the agency, what then would you have to find? You would have to find the economic criteria which the minister is going to establish to review the price increase. That would be convenient to have in regulations. That would be extremely helpful, but I don't see that. There is nothing in part III which says the economic criteria will be published. There is no indication that they are going to be made available to anybody.

Let me assume for the moment that I am a friend of the minister and I live in East York and I belong to the East York Progressive Conservative Party Association and I contribute to the minister's campaign and on election day I go out and try to get out the vote. I sit on the riding executive in his organization and look after his membership and so on. I know Bill Fatsis very well.

I therefore go to the minister and I say, "Mr. Minister, could you let me have a copy of the economic criteria by which price increases will be reviewed?" He says: "On, yes, I will. I'll send it to you anonymously next week in a brown paper envelope so you will know what I am about."

Then I will say, "What's happening in this particular price that I am interested in?" The minister will say: "I am not yet of the opinion that the price increase may not conform with the criteria because, frankly, I don't understand the criteria myself. I'm having difficulty understanding them and therefore I have to form an opinion on them."

Then he goes on to say: "When I've done that, that is, when I have understood what the criteria mean, when I've got them if I can find them or when my members of the new despotism have prepared them for me, I am going to form an opinion about it. Then I'm going to refer it to the board for investigation. Then the board is going to report back to me about it and tell me whether it conforms with the criteria. This will be extremely helpful because I have just referred it to them on the basis that in my opinion it didn't conform with the criteria."

That's a good field for argument between us because the board will say, "It does conform to the criteria and you, Mr. Minister, say it doesn't. But then we are the board and you are just the minister, and you are wrong about it." That's the first step. Having been told by the board that he was wrong in the first place to ever have referred it because it does conform with the criteria, the minister can then say: "I guess I can't operate under clause 27(3)(b). I will therefore not deal with the matter any further."

If he is stubborn--as the present minister is on occasion--and digs his heels in, he is going to say to the board, "I want you, where requested by the minister, to determine or request the public agency or public regulatory agency to determine the maximum price increase which would so conform and report back to me the result of your investigation and your determination."

Then speaking to his constituent on the equivalent of Dickens or Thackeray Street, he says: "I'm going to review the report of the board and then I'm going to make regulations to the Lieutenant Governor in Council with respect to the price increase. Then, who knows? maybe somewhere sometime the Lieutenant Governor in Council might make an order with respect to it."

There is nothing in there about regulations, not a thing. It is opaque; it is impossible to understand. You can't find the body the minister is going to deal with. You've got no list and you've got nothing which says you'll ever know what the content is of the term "public agency" and "public regulatory agency" in terms of the specifics which are involved in it.

I want to say to the Treasurer and to all of the government members on this committee that is wrong. On February 1, 1980, we went through this great Gordon Walker operation of deregulation. They were going to deregulate and were going to do away with all the agencies, boards and commissions in the province. On February 1, 1980, somebody else who fell heir to it issued the boards, agencies and commissions to which the government of Ontario appoints all or some of the members listed by ministry. There it is.

Even I, sir, would allow you to say I was engaged in some form of stalling if I went ahead and read each of these in this particular volume. Are any or all of them making any charges, fees, user charges or not? Are any of these, and which of them are, covered by this definition? What are they? What do you think we are here? Do you think we're a bunch of dummies that you can present a piece of legislation to us of this kind?

If you had--I wish there were a word which was parliamentary which would not be equivalent to honest, because I don't like accusing anybody of not being honest--used an even hand between part II and part III, if those whom you are punishing by the bill are dealt with the same specificity in section 6 and in the schedule in part III, then I would say at least they made an honest stab. At least they're trying to tell us something. At least they're making it clear. But, no, they're not.

If you had gone the other way and simply used generic definitions in the broad sense in part II, one could say that. The bill is so flawed that even if the topic were not that important, I hope that we in our party would have enough wit to object to the perpetuation of this incomprehensibility which you have asked us to provide you with, that you may further define the definition or the terms "public agency" and "public regulatory agency." Tell us what they are. Give us the list. Let us know what they are. Let the public know.

I may have missed, in the debate on second reading or in the Treasurer's statement or at some other time, who is covered. I don't remember ever seeing it.

Mr. Cooke: Not even when Elgie spoke.

Mr. Renwick: None at all. Never have I seen it. Where is the list?

What organizations are covered by the definition of public agency and what organizations are covered by the definition of public regulatory agency? Why doesn't it say, "Public agency" means an agency, board, commission or corporation, including any wholly-owned subsidiary corporation, established or controlled by the crown in right of Ontario, which provides any product or service for which a price, user charge or fee is charged, as listed in the second schedule to the bill"? Why isn't the same thing done about "public regulatory agency"?

12 noon

Then I might be able to accept in part II the little clause at the end of section 6 with respect to the schedule, "or added to the schedule by regulation" if there were a companion schedule with respect to public agencies and public regulatory agencies, if you had then added on, having listed all the ones that you thought were covered, "or added to schedule 2 by regulation."

What goes on? What gives? What's wrong that you come before us with this kind of a bill and tell us that we are to grant you the power by regulation to do certain things. I have only dealt, sir, with one aspect of the question of the regulatory power, basically related to the question of the schedule to the bill, and the lack of the schedule with respect to part III of the bill, no power of regulation, the inability of anyone to find out from the government what they are doing, and no reference at all to the economic criteria to be established by regulation.

At least in the Public Health Protection Act they've added that modern wrinkle about guidelines and regulations. You get the guidelines first and then when they have stood the test of time they will probably be taken into regulation. We don't even have that.

The Public Health Protection Act specifically states, with respect to the core programs of the government, that they are obligatory upon the local municipalities and the public health boards of those municipalities if they are published by the minister and delivered to them. Then they are obligatory.

No, we've never seen the economic criteria--I've seen no reference to them ever being made public, let alone being available at the present time--on which the minister is going to determine his view. Surely if you're asking us to give regulatory power and if you won't produce the economic criteria, surely at some point the members of the public of Ontario are entitled to know what those economic criteria may be.

When we were speaking yesterday about the amendment to the bill which would have changed the name of the board to the fair prices commission, we specifically made the point that when our amendment is introduced we will set out in the amendment to the bill the criteria which are to be taken into consideration by a fair prices commission in determining whether a price is fair or

not. If we, with our limited resources, were able to list the kinds of matters that were to be taken into consideration, surely it is not beyond the wit of a government who can't find the time because of the stretch of their resources to answer inquiries on the Order Paper. Maybe they could direct their attention to the question of what are the economic criteria.

What's wrong with the ministry? What's wrong with the government that they would do this and think that because every bill contains regulations we're supposed to roll over and die because it'll be looked after somewhere down the line by the statutory committee on regulations. It won't, of course. By the time it ever gets to that committee and they say, "That regulation appears to have been in excess of the powers that were granted by the bill," the bill, God willing, if it's not withdrawn by the government, will have died of attrition at some point.

That's wrong. I could, quite literally, pose a very strong argument that even if we were to pass the bill with the regulatory power with respect to further defining public agency and public regulatory agency, I could make a very strong case that that was offensive to the bill and was not a power which could be delegated, because definition should not be delegated. Either you can define or you can't define so that the public knows what the terms mean.

I hope some day some court will strike down the view that definitions of the major consequences of public agency and public regulatory agency can have their meanings extended by regulation. That's a legislative act which is far beyond what any Legislature, having it wits about it, should permit to be delegated to be passed by the government by regulation.

I listened to what counsel for the ministry had to say when my colleague was speaking about the question of availability of regulations. If I understood it correctly the indication was that they may not have it right in the bill, so they want to have some corrective power to do it by regulations. I'm not certain whether that was right--

Mr. Jones: I didn't understand that.

Mr. Renwick: well, then perhaps I'm right, because this says and I'm looking at section 25--perhaps I'm quite wrong about it--"Designating any compensation plan or class thereof to which this part applies."

Why do you have to designate any compensation plan to which this part applies, having gone to the trouble of itemizing in clauses 6(1)(a) to (i) and in the schedule? Why does one have to designate a compensation plan? Why do you need the regulation for that purpose? "...and where necessary prescribing the manner in which this part shall be applied."

Mr. Jones: Is that a question?

Mr. Renwick: Maybe. It may be a bit rhetorical. I'd just

as soon carry on, and you can answer it a little bit later--if you want to answer it.

Ms. Bass: I don't want to interrupt the flow of rhetoric.

Mr. Renwick: I'll try to be more specific since I'm speaking about the regulations.

Mr. Jones: You see, I've heard this lecture before in the House.

Mr. Renwick: Section 6? No, you've never heard this one before.

Mr. Jones: About regulations I have. I remember the first bill that I ever had anything to do with in the House was carrying through--I remember you were dead against the government having that prerogative of regulations. The IDEA Corp. was another.

I was wondering yesterday, as we were asked to suppose that, heaven forbid, the NDP were the government and one of your colleagues was putting a question to us asking us to follow that scenario, if you were that government if you would have unto yourselves regulations, for example?

I'm curious about that. I wonder, for example, if you would the government to have regulations to maybe regulate out of the program someone who starts out under this program, in the course of say this year coming forward. Is that something that you'd see government have?

Mr. Renwick: That's opened up a whole new avenue of thought.

Mr. Jones: I'm sorry to hear that.

Mr. Renwick: Let me deal with the regulation question.

Mr. Jones: I just wondered if you thought it was wrong--

Mr. Renwick: I don't happen to be a person like Lord Justice Hewart, who is totally opposed to regulatory power. I don't live in that world.

I do happen to believe that the regulatory power abdicated by the assembly has gone beyond where it should have gone. I'm trying to illustrate only with respect to this bill why I think it is wrong.

Very specifically, you are asking us to give you power by regulation to designate any compensation plan to which this part applies. I read this bill, which says, "This part applies to the compensation plans of employees employed in or by," and then we have the long list, so you don't have to designate the compensation plan with respect to the organization to which the person belongs.

12:10 p.m.

What then do you have to do with the designation of the compensation plan? I then look, presumably, at the definition of compensation plan and it means "all forms of payment, benefits and perquisites paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle that person to be paid a fixed or ascertainable amount." That's the definition of compensation.

"'Compensation plan' means the provisions, however established, for the determination and administration of compensation"--that's very broad, that's very clear--"and includes such provisions contained in collective agreements or established bilaterally between an administrator and an employee, unilaterally by an administrator or by or pursuant to any act or the Legislature."

So you have defined compensation plan in an omnibus sense, and then you have defined it, by inclusion, to mean four specific types, and then you ask us to give you power to designate any compensation plan to which this part applies. I could make that argument with each of the parts of this.

Then you ask us, and this is the point that you have made, "terminating, in whole or in part, the application of this part in respect of a compensation plan or compensation plans to which this part applies."

I notice that, so far as I can understand it, you don't leave the members of the assembly or the members of municipal councils to the tender mercy of regulations. As I read subsections 5(1) and (2), by statute you end the date when the termination takes place. I may have misinterpreted section 5, but that's my understanding of it. If you are just a citizen in Riverdale on Dickens or Thackeray Street then, of course, you have to find out whether or not you are still under the plan by way of termination.

I took the minister to say, "Surely you would want us to have the power by regulation to let you out of this act." Why? That's paternalism; you're in but you can get out. Provided you read the Gazette every Saturday, you will know whether you are in or you are out. That is what it says; that is all it says.

It may be beneficial to be out of the plan, but I'm not so certain, if the government persists in passing this bill, that we should allow the government to get off the hook by saying, "No, it doesn't apply to certain people," simply by regulation--not by giving reasons, not by justifying it publicly, but by publishing a regulation "this act no longer applies to this compensation plan." Should we be giving the government that kind of power?

Then it says, "Where it is considered necessary for the restraint of public sector expenditure, adding to or deleting from the schedule any person or any class of persons, or any agency, authority, board, commission, corporation or organization of any kind."

What is the ambit of that power you are asking us to give you? You have already, as I have tried to point out, with great

specificity, covered the kinds of organizations that are covered by the bill, and yet you are asking us to accept your view that, if it is considered necessary for the restraint of public sector expenditure, you may add to or delete from the schedule any person or any class of person.

I need not draw to the attention of the committee the anomalous position that, where it is considered necessary for the restraint of public sector expenditure, you have the power to delete somebody from the schedule. I would suggest we leave that one in. That is about the only one, I would think.

Let's do that; as soon as royal assent is given we will pass a regulation saying it is necessary for the restraint of public sector expenditure to delete everybody who is included in section 6 or in the schedule from the bill.

It really is quite strange that it would be in restraint of public sector expenditure to delete somebody from the ambit of the bill. I don't know what that means. I don't know what it was supposed to mean.

Then it goes on to define the expression "compensation plan" or prescribing the person or class of persons whose method of compensation shall be deemed to be a compensation plan for the purposes of this act.

I know all about drafting the provisions of taxing statutes. One can well understand why taxing statutes require the kind of minute language that is involved. Why? Not because of my constituent on Dickens or Thackeray Street, but for the guy who can afford to consult the accountants and the lawyers in the Royal Bank Tower. That is who it is for.

You have the requirements in the statutes of the Income Tax Act for the Bridle Path people. You are putting in this kind of specificity because some smart tax lawyer and tax accountant may have to stick-handle his way through the Income Tax Act to produce some nontaxable benefit for some wealthy client, corporate or individual. We have already had the examples in Cadillac Fairview Corp. Ltd.

It is absolutely amazing--as a minor digression away from the precise terms of the amendment--that it was news that the intended purchasers of the Cadillac Fairview properties had consulted with tax lawyers and accountants. The Canadian Broadcasting Corp. gave that as a news item. Can you imagine anybody from the Bridle Path moving without consulting tax lawyers and tax accountants? What's news about that?

You are asking us to further define the expression "compensation plan." I don't know how you can further define it, if you persist in it. It means the provisions, nowever established, for the determination and administration of compensation. Compensation is then defined--and I am not going to repeat it--as all forms of payments, benefits, etc., and it also deals with compensation rates. It deals with who an employee is and it deals with who this beautiful term "administrator" is. That

is an euphemism for employer, that's what an administrator is.

Mr. Jones: Senior personnel.

Mr. Renwick: An employer who is breaking your contract because he is authorized by law to do it is no longer called an employer, he is called an administrator.

It then goes on further defining the expression "compensation" or prescribing amounts or benefits or classes of amounts or benefits which will be deemed to be compensation for the purposes of this act, and defining any word or expression not already expressly defined in the act.

I cannot believe, when I read this bill with respect to part II--and I want to point out to you that the regulatory powers I have just referred to apply only to part II, the public sector compensation part of this bill--that we should be asked to give that kind of regulatory power.

12:20 p.m.

I understood counsel for the Treasurer to be saying to the committee that even if we were to ask that the draft regulations under subsection 25(1) be made available, they would not be available because they are for decisions to be made down the road.

I think what they are saying to us is: "We believe the definition of compensation is adequate in the bill. We believe the expression 'compensation plan' as defined in the bill is adequate. We believe that we have everyone in the schedule we want to get. We believe that everyone whom we have in the schedule and in section 6, with respect to the application of this, should be under the plan. We believe we will not have to necessarily designate any of the plans, but there may be some loophole somewhere that will require us to use it. There may be some terms which we haven't defined that will need definition."

I took it that there was a prospective power that you may want to use down the road. If your answer to me is, "No, it is not down the road, it is right here and now and present," I could say: "Tell us what they are and let's get them into the statute. If you have to further define the expression 'compensation plan', and you know what it is you want to further define, let's do it now." Otherwise, I take it that these are all prospective.

I think they are unnecessary and I don't think they should be in this kind of regulation. If you are going to be taxed under a bill, you should be able to look at the bill.

This is a taxing bill. It takes money from people in the public sector and allows the employer to retain it, despite the contracts involved. It is a fairly clear law that, in taxing statutes which affect the compensation of people and the dollars they will be able to get, irrespective of their contracts, requires that it be dealt with only in the bill.

I may have become carried away with the remark that this

amendment was simply a stalling device, that the regulations are necessary. I hope I have made the argument that, if regulations are necessary, this is wrong and if regulations are not necessary, then you should accept my colleague's amendment. You cannot have this kind of a bill and I defy anyone to persuade me otherwise.

I end up where I began and that is to contrast part III and the definitions of public agency, public regulatory agency and the squib of a regulatory power, with the definitions of the organizations to which compensation plans are covered by this as set out in section 6 and added to that the provisions with respect to the schedule. I think it is wrong. I think the amendment should be supported and the bill should be withdrawn.

If the bill is withdrawn, the amendment will not have to be voted on. If the bill is not withdrawn, then it may well be that at some appropriate time we should have a vote on this to see whether or not I've made any impression whatsoever on the parliamentary assistant.

Mr. Eves: I will try to keep my comments very brief and succinct, Mr. Chairman.

Mr. Jones: Mr. Eves, could I just for one point of clarification for all of us in the committee, answer Mr. Renwick's question? He was curious about why the word "administrator" was used instead of "employer" and "employee."

Counsel was just sharing with us that, because the bill is so all-embracing and includes people as diverse as MPPs and school board trustees and other groupings, that is why the word "administrator" was chosen. It could be very confusing as to who is the employer or the employee, a school board trustee, for example.

You just might find the criteria were shared back on September 21. The Treasurer will be with us this afternoon; you might want to check that.

Mr. Cooke: With whose statement? In what form?

Mr. Jones: I'm not sure how that came out, but I know I did have a chance to have a glance at it.

Mr. Cooke: You might have had a glance of it at some meeting of your caucus or something.

Mr. Jones: It was around and it made a lot of sense.

Mr. Cooke: I certainly don't have any recollection of ever seeing it. There is nothing in Miller's statement and there is certainly nothing in Elgie's statement in the House.

Mr. Wrye: That means the Treasurer will probably want to table it with us this afternoon.

Mr. Cooke: Yes, if it's available.

Mr. Jones: I don't know if ne's got it in tight form. I just remember some of them made a lot of clear sense.

Mr. Cooke: There are probably a lot of things you've seen that you won't share with us.

Mr. Eves: Having regard to the hour, Mr. Chairman, I will keep my comments extremely brief. I don't pretend to be able to change Mr. Renwick's opinion. However, I would say that, with all due respect to Mr. Renwick, I believe a great many of his comments were made with respect to clause 6(1)(i) and not clause 1(c), which is the section which is purported to be amended.

That clause, the way it is drafted currently in the bill, merely defines what the word "regulations" means. It means regulations under this act; that is, the section of the bill as proposed by the Treasurer. I think this is not unusual with respect to any statute. It is the prerogative of the Lieutenant Governor in Council to make such regulations as are deemed necessary under the statute.

A great many of comments were made with respect to notice and comment, both by Mr. Cooke and by Mr. Renwick. I'm sure they are both aware, although they may disagree, that the practice of notice and comment in the province and in any other parliamentary jurisdiction of which I am aware is not accepted. It is an accepted practice in the United States of America, which is not a parliamentary system.

A great many of Mr. Renwick's comments were directed towards clause 6(1)(i). Whether or not that is proper or acceptable to Mr. Renwick or his party would be a proper subject matter for debate at that time. There may well be some debate as to whether a list of boards and agencies, etc. is subject matter for legislation or regulation, but those comments are best heard from at that time when we're dealing with that particular section.

I think the motion that's before the committee at the moment is on clause 1(c). I think that's what we are directing ourselves to, and I don't see any problem with that definition at all. It's like any other statute that is implemented at any time.

Regulations are not always available--and I bow to Mr. Renwick's experience and knowledge--in fact, they probably are very infrequently available, to the House or to committee, before legislation is passed. I don't see anything unusual about this at all.

Mr. Wrye: I will be very brief. I only want to say, Mr. Chairman, that we will oppose the amendment to strike the regulation clause 1(c) and we will be proposing our own amendment which would ask that this section be stood down until such time as the regulations that shall be drafted at the end of our clause by clause consideration can then be brought forward to this committee for its consideration.

It's important that we have a look at the regulations and our party will so move. We believe there may be legitimacy to have

regulations, and consequently we cannot support the amendment from Mr. Cooke.

Mr. Chairman: Thank you. That completes the speakers on this question.

Mr. Cooke: Do we reconvene at two o'clock, Mr. Chairman?

Mr. Chairman: Is it 12:30 p.m.?

Mr. Cooke: Yes.

Mr. Chairman: Fine. It being 12:30 p.m., we will reconvene at two o'clock to go immediately into the vote.

Mr. Renwick: It may be that my colleague, Mr. Mackenzie, who has had to attend the Ontario Federation of Labour meeting, may want to speak briefly to this section. I have no knowledge whether he does or not, but I would like him to have the opportunity, sir, at that time.

Mr. Chairman: We'll see what happens then at two o'clock.

The committee recessed at 12:30 p.m.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

INFLATION RESTRAINT ACT

WEDNESDAY, NOVEMBER 24, 1982

Afternoon sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Cooke, D. S. (Windsor-Riverside NDP)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mackenzie, R. W. (Hamilton East NDP)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Stevenson, K. R. (Durham-York PC)
Watson, A. N. (Chatham-Kent PC)
Wrye, W. M. (Windsor-Sandwich L)

Substitutions:

Gillies, P. A. (Brantford PC) for Mr. Watson
Gordon, J. K. (Sudbury PC) for Mr. Brandt
Johnson, J. M. (Wellington-Dufferin-Peel PC) for Mr. Stevenson
MacQuarrie, R. W. (Carleton East PC) for Mr. Mitchell
McGuigan, J. F. (Kent-Elgin L) for Mr. Elston
Runciman, R. W. (Leeds PC) for Mr. Piché
Ruston, R. F. (Essex North L) for Mr. Breithaupt

Also taking part:

Charlton, B. A. (Hamilton Mountain NDP)
Conway, S. G. (Renfrew North L)
Grande, T. (Oakwood NDP)
Johnston, R. F. (Scarborough West NDP)
Laughren, F. (Nickel Belt NDP)
McClellan, R. A. (Bellwoods NDP)
Miller, Hon. F. S., Treasurer of Ontario and Minister of Economics
(Muskoka PC)
Rae, R. K. (York South NDP)
Reid, T. P. (Rainy River L-Lab.)
Renwick, J. A. (Riverdale NDP)

Clerk: Arnott, D.

From the Ministry of Treasury and Economics:

Bass, J. H., Solicitor, Office of Legal Services
Stoodley, G., Director, Office of Legal Services

From the Ministry of the Attorney General:

Fader, J. A., Deputy Senior Legislative Counsel

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

wednesday, November 24, 1982

The committee resumed at 2:16 p.m. in room 151.

INFLATION RESTRAINT ACT
(continued)

Resuming consideration of Bill 179, An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province.

Mr. Chairman: I see a quorum, so I shall call the meeting to order. Mr. Mackenzie, will you proceed?

Mr. Mackenzie: I take it we're on clause 1(c)?

Mr. Chairman: Yes. Mr. Cooke's amendment.

Mr. Mackenzie: Our motion to delete clause 1(c) from section 1?

Mr. Chairman: Yes.

Mr. Mackenzie: I see a number of new Conservative members on the committee for this long afternoon session; maybe they were here this morning, I don't know, Mr. Chairman. I'm wondering if it wouldn't be appropriate to do a summary of where we've come to--

Mr. Chairman: That would be ruled as needless repetition, Mr. Mackenzie.

Mr. Mackenzie: Surely they want to know what's been going on, Mr. Chairman.

With regard to clause 1(c), because I was down at the Oakville convention, Mr. Chairman I'm not privy to what my colleagues have said on clause 1(c). Given the importance of this particular bill, I would like to see the regulations before I have anything to do with passing a section of the bill.

There are some very serious implications. Looking at the bill itself, some of the procedures we are going to go through are going to have to be covered by regulation. I don't think it is fair to have this committee debating and passing on this bill, whether it's general practice or not, without seeing the regulations.

There are all kinds of questions in my mind. I'd like to know what kind of economic criteria and evidence there are in terms of the regulations that will be drafted. I don't know whether they have listed and counted all of those local unions--there are hundreds of them--that are going to be affected

for one year, and whether they are doing anything to take into consideration those that will be affected for between one and two years, two and three years, or even as many as three years. I don't know whether they've taken a look at the information as to which of the hundreds of local unions are receiving a rollback because they've negotiated an increase effective next year, such as the 11 per cent increase for hospital workers, and it's now only going to produce five per cent. What are the economic effects of that?

I don't even know. It's part of the information we would have asked the Minister of Labour (Mr. Ramsay) if we'd had him here. We would have asked him whether the regulations are going to take into consideration what this bill is actually going to do to employees.

We do not know whether the Treasury officials used any studies of administered prices in Ontario to prepare the government's prices review program. If there are studies, why aren't they available? They must have some effect on the regulations that we are going to see put into place. Has he got a list of those corporations, agencies and organizations and bodies that will be affected by the administered prices section of Bill 179? I don't know.

2:20 p.m.

My colleague, Mr. Renwick, tells me he didn't get into it, but he has a list of the boards, agencies and commissions to which the government of Ontario appoints members. How many of them are going to have some input into the piece of legislation we are now dealing with?

I think they are legitimate questions. Have we got a list of all provincially administered prices? Do we know which ones are going to require regulations? It seems to me that there are a number of questions that need answering, and I would like to know as well.

I am not sure this is totally under this section, but I would like to know who we have now or who we are going to have on this particular commission. Pardon my ignorance on this, but is that considered a regulation when you appoint members to this particular commission or staff or keep people on it? I don't know. I would like some answers to that. I haven't been through this procedure before where we set up such a board, and I would like to know.

I don't know why we can't know the answers, before we pass another section or vote for or against deleting a section of the bill. Some things are happening out in the community that scare the hell out of me, and underline--if you will forgive me--just exactly what we are talking about. I am also sure the Tory members have no idea of what is going on with this bill.

I have a letter in front of me to Mr. Roscoe of the Service Employees' International Union by one of the staff people who had a bit of a rough time in a series of negotiations going on right

now. They point out that in a meeting on November 22, 1982, they were informed by a Mr. Gord Piper, the administrator of Runnymede Hospital, that they were to deal with a new Ontario Hospital Association representative, effective immediately. The representative they had been dealing with--negotiating against the union or for the employers, if you like, in the hospital field--had been, the quote is, "reassigned to work with the inflation restraint commission."

That created one hell of an uproar at the convention yesterday when the information was passed to the particular union involved. Here they have one of the key people who has been fighting and negotiating against them all along in negotiations, now serving on this damn commission. What kind of a rigged jury have we got before we ever start? And with that kind of information, I damn well want to know what the regulations are before we get into this particular bill any further.

We are being given nothing. You can cry, "Stall," you can cry, "Filibuster," all you want, but we have been stonewalled getting the ministers, we have been stonewalled getting economic answers and we have been stonewalled in every legitimate and serious question we have asked on this committee.

Surely it is a legitimate question to ask where the regulations are. Table them. Let us see them. Let us find out what is in there and how many other jokers there are, how many more pitfalls we've got like finding out that one of the people on that commission is one of the very negotiators who has been arguing and putting the hospital workers down in the negotiations.

To me, that is just almost unbelievable, but that is just exactly what is going on. We get it secondhand from people being notified in the field of who the hell is being appointed to clobber them. The very people being appointed to that board are the ones they've had to negotiate with up until now on management's side.

Surely it is legitimate to ask to have the regulations filed before we proceed any further on this particular section of this bill. If they are not, our motion to delete that section is totally in order at this time.

Mr. Laughren: I am pleased to have made it back here from the Ontario Federation of Labour convention where--

Mr. Chairman: Excuse me. Might I just help Mr. Mackenzie a bit. This morning Miss Bass, solicitor with the Treasury, mentioned in response to a question of Mr. Renwick's or from one of your members that the regulations were in the process of being drawn. I just mention that it was asked and they were not ready to table them at this moment.

Mr. Mackenzie: I appreciate that. I am simply saying that we are now dealing with the regulations made under this particular act. I want to see them and I want to see them before we go much further.

Mr. Cooke: Mr. Chairman, just so you wouldn't ever be accused of misleading the committee on any point, I think what was said to us by the representative of the government this morning was that they refused to give us a commitment that they would ever table the regulations. Terry Jones said that very clearly. He would not give a commitment that the regulations would be tabled.

Mr. Chairman: I am not going to get into the exact wording, but I sure don't remember him using the word "refuse."

Mr. Cooke: He said he would not give a commitment.

Mr. Mackenzie: The more this bill stinks, the further we get with this kind of information coming out.

Mr. Laughren: I started to say that I was unable to attend most of this morning because I listened to a very stirring speech by our leader at the OFL convention, at which certain political parties were mentioned in passing during his speech as was this bill.

I am also very pleased--

Mr. Cooke: Could you be more specific?

Mr. Mackenzie: It was the standing ovation of the day, I think.

Mr. Laughren: I could even give the story of the boarder whose father and grandfather and great-grandfather voted Tory or Liberal. Anyway, I won't because of language and Hansard sensitivities.

I am very pleased as well that there are some new Tory members in the committee today, particularly the member for Sudbury (Mr. Gordon). I don't want to be parochial about it, but the member for Sudbury has had three public positions on this bill in Sudbury and I am glad he is here now to set the record straight. When he gets back home this weekend and he reads the article in the weekly newspaper, he is going to find himself greatly maligned.

Mr. Wrye: So what's new?

Mr. Laughren: I didn't write it.

Mr. Cooke: Is it not true he has stated fewer positions on this bill than on most other bills?

Mr. Laughren: Anyway, he really has had three public positions on this bill; for, against, and maybe. I'm hoping he will straighten it out. Perhaps by his presence this afternoon he is signalling that he wishes to get his exact position on the bill on the record; whether or not it does create jobs, whether it will or not restrain inflation and is supporting it or whether or not he will oppose it, as he also said publicly. Only time will tell, and I sit here in great suspense--

Interjection: Waiting for the November 24--

Mr. Laughren: --as to what the member from Sudbury is going to say about this bill.

Mr. Wrye: If I might have a point of order. My colleague and friend, the member for Nickel Belt is in breathless anticipation and suspense on the member for Sudbury's position on this bill. I wait in very restless anticipation for the member to speak to the amendment.

Mr. Chairman: That is quite in order. Mr. Laughren, will you please speak to Mr. Cooke's amending motion? Do you have a copy of it?

Mr. Laughren: Or what?

Mr. Chairman: Of Mr. Cooke's amending motion.

Mr. Laughren: On, yes. It is indelibly seared onto my brain.

Mr. Chairman: Good, good, fine. Would you please restrict your remarks to it?

Mr. Wrye: Would you like a coffee?

Mr. Laughren: No, I have one, and I don't need the Liberal interjections to remind me which side they are on. We all understand that. How many people were at that convention this morning?

Mr. Chairman: Mr. Laughren, I am afraid you are out of order there in referring to conventions.

Mr. Laughren: If it weren't for the interjections, I would have been finished my presentation by now.

Mr. Chairman: Thank you.

Mr. Laughren: I would join in support of the member for Hamilton East that we need to see these regulations.

I will tell you why. When I looked at this bill--and I don't use the word lightly--and saw the deceit that was used in the term "Inflationary Restraint Board," when I saw the deceit involved in naming the Minister of Consumer and Commercial Relations (Mr. Elgie) as the minister in this bill, then if there is that kind of deceit in the legislation itself, God only knows what is going to be in the regulations, because that is something that is not nearly as visible as the actual legislation itself.

If that is what is happening with the bill, you cannot expect us to sit back and say: "Well, just lay the regulations on as you will. Let your regulations committee draw up the regulations and we will accept in blind faith that you will do what is honourable."

When I look at clauses 1(a) and (b) and the way you have manipulated the language there, I don't trust you to bring out regulations. I really don't. I think it is safe to say that the other New Democrat members feel exactly the same way. We don't like what you are doing. We don't like the way you are being evasive.

You are not being honest in saying the word means "compensation restraint board" instead of "Inflation Restraint Board." We don't like you saying that it is the Minister of Consumer and Commercial Relations, implying that prices are going to be restrained, rather than the fact that it should be the Minister of Labour who is doing what he is doing and what you are doing to collective bargaining for our public sector employees in Ontario .

2:30 p.m.

You are now laying some regulations on us, or will be, which we do not have the right to pursue. If it is true that the member for Mississauga North (Mr. Jones), the undersecretary of Treasury, did indeed say this morning that he would make no commitments to show us the regulations, I would like to know why.

Is there some reason we will not be shown the regulations now? What possible reason would there be for not tabling the regulations with us? Is there something there that you think we would find so offensive that we might dig in on the bill?

Mr. Wrye: A point of order, Mr. Chairman. I have listened to my friend the member for Hamilton East, and now I am listening to my friend the member for Nickel Belt speak about why the regulations should be tabled at this moment or while this committee is still sitting.

I am a little confused, because the amendment, as I read it, is to strike out a clause. I suggest that neither speaker has spoken to an amendment as to why the regulations could not be produced now, We have an amendment which will do that--

Mr. Chairman: Mr. Wrye, he was speaking about regulations. He did speak laterally about regulations, and so he is relatively on topic, relatively.

Mr. Cooke: Barely.

Mr. Mackenzie: We were going to nominate him for vice-chairman of the committee, but we will withdraw that.

Mr. Wrye: No favours, please.

Mr. Chairman: Carry on, Mr. Laughren.

Mr. Laughren: There are some occasions when I appreciate your crisp decision making and this is one of them. I should warn you, though, not to be too hard on the member for Windsor-Sandwich (Mr. Wrye) or he might not stay and support you the way he has done over the last several weeks.

Mr. Wrye: Sixty-four days.

Mr. Laughren: What I am asking--and I am glad that both the Treasurer (Mr. F. S. Miller) and the undersecretary are here this afternoon--

Hon. F. S. Miller: Undersecretary, I believe, is the term for an appointed official.

Mr. Laughren: Right. Who do you think appoints him to the job?

Hon. F. S. Miller: He is elected.

Mr. Laughren: No, on a point of order, Mr.--

Mr. Mackenzie: Not to this job.

Mr. Laughren: Is he elected parliamentary assistant? No, he is appointed.

Hon. F. S. Miller: He is not a bureaucrat.

Mr. Laughren: I have done my research.

Hon. F. S. Miller: An undersecretary is a bureaucrat. My friend is far from a bureaucrat.

Mr. Laughren: You are changing it a bit now. A minute ago you said it was somebody who was appointed--

Hon. F. S. Miller: Elected by the people of Ontario.

Mr. Mackenzie: Or by the people of Mississauga North; you should not blame all of the people of Ontario.

Mr. Laughren: I was thinking of it more in the American term.

Hon. F. S. Miller: Well, do not think in the American term.

Mr. Mackenzie: He is republican, in the broadest sense of the term.

Mr. Laughren: Anybody who is as republican to the core--

Mr. Chairman: Please disregard the interjections, Mr. Laughren, and carry on. Restrict yourself to the amending motion, please.

Mr. Laughren: It is hard to ignore supply-side Jones, though, I want to tell you.

I started to say that I am glad the parliamentary assistant and the Treasurer are both here this afternoon so we can get an explanation as to why these regulations will not be presented to us.

Surely you understand why we are hesitant to accept this clause as part of the bill because we simply, I will say again, we do not trust you on this piece of legislation. And if we do not trust you on what is printed in the legislation now can we trust you on the regulations?

I would urge you, Mr. Chairman, to nod or wink to your confreres and urge them to support our specific motion, particularly some of the back-benchers from the Conservative Party, who must be nervous themselves at what is going on with this bill. I can see some hesitation now that was not there a month ago. I can see the odd members who do not stay in any more. They come and go and take turns; before they used to hang in with a certain amount of fervour and commitment to the legislation.

Mr. Jones: We just wanted to share among members of our caucus some of the excitement of the committee.

Mr. Laughren: I see. Well that is commendable of you; it is almost a socialist act.

Interjections.

Mr. Laughren: Mr. Chairman, I will rest my case there but urge the other members of the committee to support us on this particular motion.

Mr. Eves: Mr. Chairman, I will make my remarks very brief, really. If Mr. Laughren had been here this morning he would have heard the--

Mr. Laughren: Stonewall Eves.

Mr. Eves: --eloquent remarks being made by Mr. Renwick and Mr. Cooke to exactly the same points he has addressed here.

Mr. J. M. Johnson: Same speech.

Mr. Eves: I do not really think we have heard any new arguments or comments from the New Democratic Party. We have heard from Mr. Wrye of the Liberal Party; we heard from myself this morning; at this point, under rule 36, I would move that this question be now put.

Mr. Cooke: You're just wasting time.

Mr. Chairman: All right, standing order 36--is there a question?

Mr. J. M. Johnson: How long is your list?

Mr. Chairman: There were yourself and Mr. MacQuarrie remaining.

Mr. Laughren: From Landslide Eves to Stonewall Eves.

Mr. Chairman: Do you mean remaining or up to now, Mr. Johnson?

Mr. J. M. Johnson: Remaining.

Mr. Laughren: I would have spoken longer if I had known you were going to do that.

Mr. Chairman: The question before the committee is that this question be now put.

Mr. Mackenzie: May we call for a 20-minute recess?

Mr. Chairman: Excuse me, no. I have not yet ruled whether it is in order.

Mr. Mackenzie: Good, maybe we will have a chance to hear the remaining speakers.

Mr. Chairman: We started this motion of Mr. Cooke's at 11:10 a.m. and went till 12:30 p.m. Now we have gone from 2:16 p.m. until now, 2:37 p.m. We have had no Liberals except Mr. Wrye on several points of order.

Mr. Wrye: I spoke just before 12 o'clock.

Mr. Chairman: I am sorry; yes, you did. Mr. Wrye spoke as well on several points of order. Three of the NDP, as well as Mr. Cooke, have spoken.

Mr. Laughren: The member for Sudbury did not speak yet. Give us one of your positions, any position.

Mr. Chairman: I am going to rule no Liberals except Mr. Wrye have asked to speak. I am going to rule that the rights of the minority have not been abused or infringed upon, and as usual I do not know of any--

Mr. Mackenzie: Point of order.

Mr. Chairman: No, I'm sorry, no point of order.

Interjections.

Mr. Chairman: There is nothing out of order. The same as last night, there is nothing out of order.

Mr. Mackenzie: I challenge your ruling then. This is a closure motion.

Mr. Chairman: There is no point of order taken here. I am in the midst of ruling. I am ruling that it is in order and there is no abuse of the standing orders in Mr. Eves putting this motion at this time.

Mr. Cooke: Then we are challenging your ruling.

Mr. Chairman: Fine, correct. I am ruling that it is in order for him to put this at this time. It may not be debated or amended.

Mr. Cooke: Even though we debated the last one for two and a half hours.

Mr. Chairman: Have you said that you are challenging the ruling?

Mr. Mackenzie: Yes, I am challenging your ruling.

Mr. Chairman: Fine. They can challenge my ruling that that Mr. Eves' motion is in order.

Mr. Mackenzie: Twenty minutes.

Mr. MacQuarrie: I do not know that there can be a challenge to that, Mr. Chairman.

Mr. Chairman: I am afraid I am going to allow it; at 2:39 p.m., 20 minutes requested.

The committee recessed at 2:39 p.m.

2:59 p.m.

Mr. Chairman: We are back on the record. It being 2:59 p.m. we shall proceed to vote on the challenge to the chair. The question is shall the chair's ruling be upheld. Answer the clerk as he calls your name.

The committee divided on the chairman's ruling, which was sustained on the following vote:

Ayes

Eves, Gillies, Gordon, MacQuarrie, J. M. Johnson, Jones.

Nays

Cooke, Mackenzie, McGuigan, Ruston, Wrye.

Ayes six; nays five.

Mr. Chairman: The challenge fails six to five. Shall we then vote on Mr. Eves' motion under standing order 36?

Mr. Mackenzie: Hold on, Mr. Chairman; we request a 20-minute recess.

Mr. Eves: Mr. Cooke had to go to the washroom.

Mr. Chairman: You want 20 minutes under standing order 89(c)?

Mr. Mackenzie: Yes.

Mr. Chairman: Thank you. It is now three o'clock. That will be at 3:20 p.m. We will resume to vote on that question.

The committee recessed at 3 p.m.

3:20 p.m.

Mr. Chairman: Shall we vote upon Mr. Eves' motion regarding the question being put--that the question shall now be put? Will you please respond to the clerk as he calls your name?

The committee divided on Mr. Eves' motion, which was agreed to on the following vote:

Ayes

Eves, Gillies, Gordon, J. M. Johnson, Jones, MacQuarrie.

Nays

Cooke, Mackenzie, McGuigan, Ruston, Wrye.

Ayes six; nays five.

Mr. Chairman: The motion carries six to five, therefore we shall proceed as standing order 36 says, we shall proceed with a vote on the main motion which is: Shall clause 1(c) stand as part of the bill? I presume you wish a recorded vote as usual? Will you please respond to the clerk as he calls your name.

The committee divided on Mr. Cooke's motion, which was agreed to on the following vote:

Ayes

Eves, Gillies, Gordon, Johnson, Jones, MacQuarrie.

Nays

Cooke, Mackenzie, McGuigan, Ruston, Wrye.

Ayes six; nays five.

Mr. Chairman: The motion carries six to five.

Mr. Jones: I have a motion.

Mr. Chairman: Mr. Jones moves that the committee not proceed with consideration of this bill, but that it be reported to the House at this time.

Mr. Jones: Mr. Chairman, I would readily recognize that our standing orders do not provide for this. Neither do any of our standing orders prohibit this. So we must go to the British House. Of course, as you are well aware of our precedents, Mr. Chairman, I would refer you to Erskine May, page 626, of the systems of committees, chapter 25 and would just share with the committee briefly the comment there on reporting:

"Circumstances have arisen which, in the opinion of the members in charge of the bill, have rendered it inexpedient to proceed further with consideration of the bill, and on these occasions that members have been permitted to move, 'That the

committee do not proceed (or proceed further) with the bill.' The circumstances in which such motions have been moved have been varied considerably but their general nature may be indicated by a few examples. Such motions have been made when there seemed to be no prospect of the bill being reported to the House in sufficient time to allow it to be considered by the House.

"A motion that the committee do not proceed (or proceed further) with the consideration of a bill, is debatable, but may not be amended. If the motion is agreed to, the chairman is then ordered to report the bill to the House without amendment or with such amendments as the committee has made."

Mr. Chairman, as you know, the procedure within the House is to have a member carry a bill for the minister, in this case as I refer to the member in charge--in referring back to this precedent--is clearly the minister, namely the Treasurer.

I know his feelings in my capacity as parliamentary assistant to him, so I would say to you, Mr. Chairman, that of course, as I make this motion, I share with you the Erskine May precedents. I would point out that we were sent here by the House on October 19 to begin normal clause by clause on November 2. In four weeks, we have not reached that normal clause by clause consideration. I beg that we proceed with the consideration of this motion.

Mr. Wrye: Point of order.

Mr. Chairman: Yes, fine. May I have your precedent to study, Mr. Jones?

Point of order, Mr. Wrye and then Mr. Cooke.

Mr. Wrye: On a point of order on a couple of matters: Number one, really for clarification, is this to report to the House for clause by clause consideration, or report to the House for third reading?

Mr. Chairman: Are you having that typed up or copies distributed?

Mr. Jones: I have it typed.

Mr. Chairman: Could you give it to the clerk so that he can then have it photocopied? I think I just heard him say "reported to the House."

Mr. Wrye: We also do not have a copy of the information, the Erskine May consideration, that Mr. Jones has just read into the record. Might I ask, on a point of order, if it would be appropriate, considering the import of the motion just put, that we adjourn for 15 or 20 minutes so that we may have a look at the material and get some clarification from the clerk as to what the effect of this motion is?

Mr. Chairman: Okay, I have heard that.

Mr. Cooke, I could ask if that is the feeling, that they would like to take a 10-minute break, but would you want to address your point of order before that?

Mr. Cooke: I would not mind seeing the Erskine May quotes that he used. I have two points of order on this that I would like the chair to consider. I think it is most appropriate that we adjourn.

Mr. Chairman: I am trying to get a consensus here. Is it the consensus of all three--

Mr. Wrye: A quarter to four.

Mr. Chairman: Seventeen minutes. Fine, all three parties are agreeing to a 17-minute adjournment to 3:45 for copies to be given out as soon as possible, right in this room.

The committee recessed at 3:27 p.m.

3:46 p.m.

Mr. Chairman: It being again a stout 3:46, shall we proceed? Mr. Jones has spoken to his motion on the floor. May I point out that I had an order--as I saw it--of Eves, Gordon, Laughren, Mackenzie and Wrye. However, Mr. Eves pointed out to me that he believed that Laughren and Mackenzie had their hands up before Mr. Gordon and he did. I am prepared to reverse that order, only if you wish. What do you want?

Mr. Wrye: In what order were they?

Mr. Chairman: As I saw them or as Mr. Eves pointed out to me? I saw them as Eves, Gordon, Laughren, Mackenzie and Wrye.

Mr. Wrye: Call them as you see them.

Mr. Chairman: As I saw them, thank you. On your point of order, Mr. Wrye, you are through with that. Mr. Cooke has one or more points of order.

Mr. Cooke: I am suggesting that this motion as put by Mr. Jones is out of order. My first point of order--which I think makes this motion out of order--is the mandatory instructions. I assume, Mr. Chairman, that you will rule on each point of order separately as we have before on these kinds of decisions.

Mr. Chairman: Yes, that appears so. Excuse me one second. Do you wish to be on the main list or Mr. Cooke's point of order?

Mr. MacQuarrie: The main list.

Mr. Chairman: Thank you. Yes, I think it would be reasonable to rule on each point of order as it comes up.

Mr. Cooke: Mr. Chairman, the mandatory instructions that have been given by this committee, of which you have on numerous

occasions reminded us of--and I look at the last sentence where it says when we will be sitting--says, "After clause by clause consideration is finished, the bill will be reported to the Legislature."

I submit to you it is very clear that we have not completed clause by clause discussions of this bill. In accepting this motion, you would be violating a motion of the House which instructs this committee very clearly. For that reason, I believe Mr. Jones' motion is out of order and clearly out of order.

Mr. Chairman: Thank you. Does anyone else wish to speak to this point of order?

Mr. Jones: Clearly, Mr. Chairman, I don't find myself in agreement with Mr. Cooke and I would speak against his point of order; I would say it is out of order.

We were ordered by the House to proceed, as I pointed out, on November 2. We had one small delay--the death of a former Premier--but other than that, we did proceed according to the House except we arrived here and had four weeks of other than normal clause by clause consideration. It was, as you know, a matter of wrangle and delay tactics.

Mr. Chairman: Mr. Jones, I don't think that is directly on the point of order.

Mr. Jones: Getting back to Mr. Cooke's point of order, the Erskine May reference I referred to clearly points out that if the circumstances have arisen which, in the opinion of the member in charge of the bill, render it inexpedient to proceed further with consideration of the bill--and all these occasions that members have been permitted to move, and I say to you again, as I did in putting my motion, that this is indeed the case and this is the precedent I cite to you yet again.

3:50 p.m.

The member, who, as we know in the British House, is the member who carries the bill for the minister responsible, does feel it has been rendered inexpedient to proceed further with consideration of the bill. That precedent, of course, is what we are referring to and thus I say that Mr. Cooke's point of order is out of order.

Mr. Renwick: I do not know what Mr. Jones was talking about, but I want to say that the motion which Mr. Jones has introduced is, I submit to you, out of order. It is out of order because, whatever the rules may be in the British House, the member introducing the motion has not seen fit to do other than to give us the pages from Erskine May.

As I understand it, none of the research has been done to provide the committee with the examples on which he rests his case to let us see what he is talking about. For example, we do not have the proceedings in 1924 and 1925 on the wild birds protection bill which apparently was one of the authorities on the basis of

which Mr. Jones has cited his particular case. I would like to know the particulars from the proceedings of the House of Commons in London about that matter.

I believe even Mr. Jones would think that the motion which he has placed before this committee is a most serious and drastic curtailment of the work of this committee. I refer him, since the emancipation of the British North America Act, to Beauchesne's Parliamentary Rules and Forms, Fraser, Birch and Dawson, 1978, fifth edition, Rules and Forms of the House of Commons of Canada, with annotations, comments and precedents.

Mr. Chairman: What page, Mr. Renwick?

Mr. Renwick: Perhaps a number of pages, but my first page is on page 230. I would take it that the research which has been done on behalf of the " b r"--and I use that word in quotes because I am not certain that Mr. Jones has any authority to even be the member to introduce this motion--would indicate that there is no precedent of this House for this action ever being taken. Perhaps Mr. Jones would tell me whether or not he has any knowledge of any precedent of this assembly, since it came into existence in 1792, having done this.

Mr. Jones: I acknowledged in my remarks in putting the motion, Mr. Renwick, that I knew of no precedent in Ontario, nor in our standing orders, but I also know that there is no precedent that prohibits. Then I merely reminded the chairman, as he is well aware, that in the absence of that we would be going back to the House of the British Parliament where we found ourselves looking at Erskine May's reference work.

Mr. Renwick: In the time that the Legislative Assembly of Ontario has existed, since 1792 and through to Confederation until the present, there is no precedent for such action by the government.

Mr. Jones: For or against.

Mr. Renwick: You are aware, I assume, Mr. Chairman, that the law of England was introduced into Ontario in 1792, on September 1, I believe, at 12 o'clock high noon. I question whether or not we should find ourselves, in this emancipated day, bound by whatever rules are applied in the British House of Commons without a thorough knowledge of the separate and distinct procedures of that assembly.

Perhaps the clerk of the committee would correct me if I am wrong, but before our modern standing orders of the Legislative Assembly, there was, in the first rule of that assembly, a specific reference to British parliamentary tradition as being the usages which would govern this assembly. If not, I would ask the clerk to look back at the rules of the assembly prior to the first updating of the rules, which I recall took place in 1976 or 1978.

You will notice that there is no reference to British parliamentary tradition in item 1(b) of the standing orders: "In all contingencies not provided for in the standing orders the question shall be decided by the Speaker or chairman, and in making his rulings the Speaker or chairman shall base his decision on the usages and precedents of the Legislature"--and there is none--"and parliamentary tradition." So, in considering whether this motion is in order, I say that you are referring to a parliamentary tradition.

The first reference I would like to make is that, on page 230 of Beauchesne, in the paragraph numbered 763, under the title Function of a Committee on a Bill: "The function of a committee on

a bill is to go through the text of the bill clause by clause and, if necessary, word by word, with a view to making such amendments in it as may seem likely to render it more generally acceptable."

Beauchesne refers to Erskine May, Parliamentary Practice, on page 506. I am referring to May, the 19th edition, Sir David Lidderdale. I do not know whether Sir David Lidderdale would or would not be available to appear before the House or this committee to explain this provision that Mr. Jones has brought to us.

I quote from page 506 of May, under the heading The Function of a Committee on a Bill:

"The function of a committee on a bill is to go through the text of the bill clause by clause and, if necessary, word by word, with a view to making such amendments in it as may seem likely to render it more generally acceptable."

You will note the identity of the words in the edition of May and those in the edition of Beauchesne.

My next point is the one which my colleague has made, that we are under instructions from the House--and I am going to use that dread word that has caused me so much concern. I now quote from page 508 of May, chapter 21, Proceedings in Passing Public Bills, heading Instruction:

"Before the committee to which a bill has been committed commences its consideration of the bill, an instruction may be given to such committee, the purpose of which is either to empower the committee to do something which it could not otherwise do, or to define the course of action which it must follow. The first type of instruction is called permissive, the second mandatory."

I apologize to you, Mr. Chairman, for the concern I had about your use of the term "mandatory instructions of the House." We are under mandatory instructions of the House. Without reading the first part, with reference to the public hearings, we then come to this phrase, "and that normal clause by clause consideration of the bill start on November 2, 1982, with sittings Tuesdays, Wednesdays and Thursdays at the times set out above, and that after clause by clause consideration is finished, the bill will be reported to the Legislature."

4 p.m.

My second point is that, in considering this motion, to accept it would be in clear breach of the instructions of the Legislative Assembly to this committee.

My third point relates, not to any disrespect I have for the parliamentary assistant, either in his role as parliamentary assistant to the Treasurer, sitting at your left hand, sir, on some occasions, or sitting as a member of the committee on other occasions. But it does seem to me somewhat arrogant and peremptory on the part of the member to say, first of all, that he is the member who is in charge of this bill in this committee.

Second, I would say that it is somewhat arrogant in the parliamentary sense of that term, for him to presume for one single moment that he can move a motion, Mr. Chairman, that you should consider to be in order when faced by very specific and clear instructions of the House.

My next point is, apart from the formality of the rules that we have under consideration, one must consider, in dealing with this motion, that the oil which smooths the functioning of this assembly has been worked out over a number of years, since the near-defeat of the government in 1975 in particular, and the specific defeat of the then government House leader in that election. Since that time, machinery, which is very delicate and important, has been worked out by which agreement is reached with respect to the business of the House.

The House leaders of each of the three parties are the mechanisms through which this House, in an orderly well-mannered and efficient way, decides by agreement where and when possible, to work out the orderly transaction of the many areas of business of the House.

For you, sir, to disregard the background under which the House instructed this committee, as moved by Mr. Wells on Tuesday, October 19 when he stood in his place, and with unanimous consent the House reverted to motions, and when it was, on motion by Mr. Wells, ordered--I will not read the order that was there--we cannot and you, sir, cannot, in considering this motion, disregard what first, the unanimous consent was, and second, the background of that motion. It was by very clear and specific agreement amongst the House leaders that this was the way in which this bill would be dealt with.

That is the reality of the world of our association here together, as members of this assembly trying to work out the particular matters. That was translated to our caucus as the agreement under which we were to carry out our business.

My next point is that something seems to turn in people's minds on the use of the words "normal clause by clause." I take that to mean that the consideration of the committee would be in the ordinary course of its operations. I would take that to mean that it would be agreed, for example, having heard all of the public representations, we would proceed in an orderly method, clause by clause, to deal with the bill.

I will return to the matter, if you will permit me, Mr. Chairman, at some point, when I find the actual reference, which, as usual, I have now misplaced, that the normal proceeding of the committee is to hear the proponents of the bill, hear those who are anxious to make any comments on the bill, and then to proceed with the clause by clause discussion.

It has been a tradition in this committee that we were prepared--in order to work out this arrangement that was made among the three House leaders--to forgo the participation by the public in the clause by clause discussion, which was part of the normal procedure of this House, by tradition of this assembly--I

am not talking about anywhere else. We have forgone that, as have the members of the public. Since November 2, we have devoted our attention exclusively to the passage of this bill.

The member has taken it upon himself to say that he is the member of this committee responsible for the bill, even though he has often not sat in his seat as a member of the committee. On November 24, at 3:30 p.m., he has suggested that we have in some way reached a stage where he can invoke a drastic breach, not just in the rules of the House--by citing the situations and the conditions he had discussed--but a drastic breach in the machinery under which this assembly has functioned since 1975.

I would ask the member seriously to consider--and perhaps you, Mr. Chairman, would make a suggestion to him--that he should withdraw his motion. He has made his motion without any regard for the consequences, not just on the future of this bill, but on the future operations of this House.

I am certain he has not given any such consideration to these matters. He may well not have been aware of the chaotic way in which the business of this assembly was conducted prior to 1975 and to the Camp commission report.

To say, at this hour of November 24, that after having sat since November 2 on the clause by clause discussion of the bill, he can somehow or other invoke this kind of rule because he wants to be out of the trenches by Christmas, is just simply beyond my comprehension.

If at another point I find the reference which I have now misplaced, I would like to ask you to come back to it, Mr. Chairman. I ask you to rule the amendment out of order, sir.

Mr. McClellan: I think it would be appropriate to hear an attempt to rebut the totally persuasive arguments made by the member for Riverdale. So I would be pleased to yield my place to any of the proponents of the bully-boy motion--

Mr. Chairman: There will be no editorial comments.

Mr. McClellan: Are there no editorial comments? That is an interesting--

Mr. Chairman: We shall go to Mr. MacQuarrie, then back to Mr. McClellan.

Mr. MacQuarrie: I listened with great interest to Mr. Renwick's arguments. He made a strong case for the worst appearing the better reason. I would submit the motion is in order.

I have had limited exposure to the committee, sitting on it yesterday afternoon and this afternoon. From what I have gathered, this committee, instead of oiling the smooth-functioning machinery of government that Mr. Renwick referred to, has turned into a rather a chaotic sort of situation. Today, for instance, most of the day was spent dealing with a simple definition clause.

We see, in the order from the House--

4:10 p.m.

Mr. Cooke: Mr. Chairman, I might point out that the member is not speaking to the point of order. He is speaking to the motion. We will get to the motion if you rule it in order.

Mr. Chairman: Yes, please restrict yourself to the point of order of Mr. Cooke.

Mr. MacQuarrie: Both refer to normal clause by clause consideration as ordered by the House. From what I gather and from what I have observed, this consideration can by no means be considered normal.

Mr. Mackenzie: You're the expert.

Mr. MacQuarrie: It has proceeded to the extent where there has been, to my mind, an abuse of process and abuse of the rules of the House. Circumstances have arisen over the past month which have rendered it expedient to deal with this motion at this time, in the interest of getting this legislation before the House. I think circumstances demand it and warrant it. The motion is clearly in order and I would submit that it should stand, Mr. Chairman.

Mr. McClellan: With respect, the government's defence ignores the arguments made by my colleague, the member for Riverdale. I don't want him to repeat them, but let me stress three points.

First, on October 13, the House leaders came to an understanding with respect to the conduct of business.

Mr. Chairman: Order, might I have order in the audience, please. There are members along that bench who cannot hear the speaker. Carry on, Mr. McClellan.

Mr. McClellan: The first point is that the House leaders and the whips of all three parties came to an agreement on October 13 for the ordering of Bill 179. That was an eight-point agreement. The fifth point of that agreement reads as follows: "Normal consideration of clause by clause shall start Tuesday, November 2, following the same schedule of sittings per week."

There has been discussion as to what is meant by normal clause by clause. That is spelled out in the motion of the House, read by Mr. Wells on October 19. "Normal clause by clause consideration of the bill starts on November 2, 1982."

Here is the operational definition of what that means: "Sittings Tuesdays, Wednesdays and Thursdays at the times set out above and that after clause by clause consideration is finished the bill will be reported to the Legislature." Normal clause by clause consideration means you start at the beginning of the bill and you work through until the bill is finished. That's what the order of the House says.

Whether the government agrees to the amount of time clause by clause is taking is absolutely irrelevant. The government has no right to muzzle members of the Legislature with respect to clause by clause consideration. As my colleague has pointed out, both Beauchesne and May talk about a consideration not just clause by clause, but word by word. That's the practice around here.

The Family Law Reform Act took a number of years to complete. I'm not exaggerating. It was very difficult and complex legislation. It took a number of years of clause by clause consideration in committee and in committee of the whole House to complete that legislation.

The Landlord and Tenant Act took eight or nine months of clause by clause consideration and word by word consideration before it was completed. I can go on. The Child Welfare Act took many months of word by word consideration. The Mental Health Act took many months. These are bills that I've had the opportunity to work on since I was elected in 1975.

This is the first time we have been presented with the kind of desired ultimatum from the government that is now nakedly in front of us. When the bill was introduced by press conference last September, there was an indication to us that the government would like the bill completed at second reading stage in about two days. There was no mention of public hearings. There was some discussion of clause by clause in committee of the whole House and passage within a matter of days, from second reading through clause by clause to third reading and proclamation, lickety-split.

That's not the way things are done around here. That's not the way a legislative assembly or a parliament deals with legislation. The government is the author of its own misfortune with respect to the procedural delays that have been alluded to by virtue of its refusal to permit expert witnesses from the various ministries to appear in front of the committee and describe the impact of this bill on their own programs and on the statutes which they are responsible to administer and enforce.

Finally, on the point that the bill is quite simply out of order: Mr. Chairman, you have referred on dozens of occasions to this committee's mandatory instructions. You have made dozens of rulings in which you have cited as your authority the mandatory instructions of the House from which you are not permitted to deviate. You even got very angry at us a few times when you felt we were trying to violate those mandatory instructions.

The mandatory instructions are crystal clear: "The committee will sit at the times set out above and after clause by clause consideration is finished, the bill will be reported to the Legislature." We haven't finished the clause by clause consideration and we can't report the bill to the Legislature until we have finished the clause by clause.

Mr. Jones: How many weeks did we spend calling for various ministers to come before the committee before we would get on with clause by clause?

Mr. Chairman: Order, Mr. Jones.

Interjections.

Mr. Chairman: Mr. Jones, you're out of order. Mr. Cooke, please. Mr. McClellan has the floor.

Mr. McClellan: I dealt with that. If the government hadn't tried to stonewall with respect to the--

Mr. J. M. Johnson: Come off it. What the hell are you doing now?

Mr. Chairman: Out of order.

Mr. McClellan: I am speaking on a point of order, sir, I believe I have the floor.

Mr. Chairman: Yes, you do, that's correct. As I said, please disregard the interjections.

Mr. McClellan: As I said, I had already dealt with that. If you hadn't stonewalled, Mr. Jones, with respect to the presentation of expert witnesses, which is the normal procedure on clause by clause, you wouldn't have had the procedural hassles that lasted for such a long time. You are the author of your own misfortune of that by virtue of your bully-boy tactics.

Mr. Jones: You're avoiding the precedents of this House. In all the bills you just mentioned and--

Mr. Chairman: Mr. Jones, I'll let you go back on the list, if you wish.

Interjection.

Mr. Chairman: Mr. Gillies, you're also out of order.

Mr. McClellan: What an excitable parliamentary assistant. I'll conclude. I don't know how you can get around the reality that the House has given the mandatory instruction to this committee to finish the clause by clause consideration before it reports the bill back to the Legislature. The final part of the agreement of the three House--

Mr. Jones: What did you do with the four weeks?

Mr. Chairman: Order, Mr. Jones.

Mr. McClellan: With those four weeks, we tried to persuade the government to adhere to the normal practices of clause by clause consideration and bring before the committee those expert witnesses who could testify as to the impact of this state on their own programs and on the other statutes of Ontario which they have responsibility to administer. That is principally the Minister of Labour, whose role--not to say his responsibilities under the Labour Relations Act--is, in our view, seriously compromised. The government has so little confidence in

the Minister of Labour, who it regards as so incompetent, that it is--

Mr. Jones: That's not so. There you go again. You're off the point.

Mr. McClellan: --unwilling to permit him to come before us.

Mr. Chairman: Mr. Jones, could we please have order. Mr. McClellan, please restrict yourself to the point of order at hand as set forth by Mr. Cooke.

Mr. McClellan: I'm trying to.

Mr. Chairman: Yes, you're straying pretty far. Carry on.

4:20 p.m.

Mr. McClellan: I could have finished about 10 minutes ago if the parliamentary assistant would allow me to conclude my remarks.

You are going to have to do a fairly fancy act of juggling, Mr. Chairman, if you accept this motion in view of the many rulings you have already made with respect to the mandatory instructions of the House to this committee. In our view, there is no way a standing committee can overturn its basic terms of reference, which are to start and complete and finish the clause by clause consideration of this bill.

How we order our business is up to us, but we cannot alter our terms of reference. If the government is determined to torpedo the work of this committee--as it apparently is--they are going to have to move a motion in the House which will repeal the motion of October 19 and set out new terms of reference for this committee. This committee doesn't have the authority to self-destruct, no matter how self-destructive the parliamentary assistant may feel this afternoon. You don't have any authority to accept his motion.

Mr. Wrye: Mr. Chairman, I have had a chance now to look at some of the references the parliamentary assistant has made in introducing this motion and I have had a good chance to look at Mr. Wells' motion which sent this matter to committee in the first place.

My colleagues and I are most concerned about ensuring that the proper rules of the House are followed and that the parliamentary assistant does not attempt to offer this committee a motion which is out of order. Speaking to Mr. Cooke's point of order, it is my judgement and that of my colleagues that this motion is not in order.

I would like to make three points. I will start where my friend, the member for Bellwoods left off, on the mandatory instructions of the House. I can find nothing in those mandatory instructions which would allow this committee--which I will grant you, can order it's own business--to terminate clause-by-clause

consideration as part of its business. It might be something the parliamentary assistant might wish or that individual members might wish would happen, but it is not within the order that was given to us when we were first given this bill to consider.

My friend the parliamentary assistant has brought up what have we done for the last four weeks. I understand what he is saying, but with respect to this motion, it is really neither here nor there. This committee has been moving forward with all deliberate speed, as it were, in its consideration of Bill 179 through clause by clause and through procedural motions offered by various parties which preceded the beginning of clause by clause.

I find, and I would ask you to find, Mr. Chairman, that under the terms of the mandatory instructions, you would have no choice but to rule the motion out of order.

I would also like to make two other references. The first is the method by which, under Erskine May, the parliamentary assistant has introduced this motion. I would like to quote from pages 626 and 627. He has suggested, "On the other hand, circumstances have arisen which, in the opinion of the member in charge of the bill, have rendered it inexpedient to proceed further with consideration of the bill, and on these occasions that member has been permitted to move, 'that the committee do not proceed further with...the bill.'"

That is the motion you have before you to consider whether it is in order. To help you, Mr. Chairman, and looking further at Erskine May, on pages 626 and 627, he says: "The circumstances in which such motions have been moved have varied considerably but their general nature may be indicated by a few examples.

"Such motions have been made when there seemed no prospect of the bill being reported to the House in sufficient time to allow it to be considered by the House; when the government had declined to move a resolution in the House sanctioning the charge on the public or on public funds proposed in an unofficial member's bill; when the government had indicated that it would take action, whether by legislation or otherwise, in connection with the subject matter with which an unofficial member's bill proposed to deal; when the committee had disagreed to the affected provisions in the bill, or had amended the bill in such a way that the member in charge was not willing to proceed."

There seems to be a general direction that tradition has allowed the committee's consideration of bills to be halted, but there is no suggestion that the consideration of the bill in clause by clause should be halted because things were moving along too slowly. The only one that even comes close to following tradition is that there seemed no prospect of the bill being reported to the House in sufficient time to allow it to be considered by the House.

That is not so in this case. There is no timetable that I know of that says we have to be out of here by December 15 or December 22 or January 15 or January 31, 1983. So it seems to me you cannot rule that that one very tenuous example should be followed.

There have been a number of examples given, and I do not see any that would allow you to rule the motion in order, as has been suggested by my friend the parliamentary assistant.

Finally, I would refer you to page 627 where it says, "It has been ruled by Mr. Speaker that such a motion can normally be moved only by the member in charge of the bill." I would argue that the member in charge of the bill is the Treasurer of Ontario, not the parliamentary assistant to the Treasurer, although he has sat in his place on a number of occasions.

Even if you were to rule the motion in order for all other reasons, this motion would be out of order because it has not been put by the member in charge of the bill, who is the Treasurer of Ontario.

Mr. Cooke: I was going to make the point the member for Windsor-Sandwich just made on the quotes that Mr. Jones has used from Erskine May. If he can say which of these circumstances apply to this situation--It may be that the Conservative members of this committee and of the Legislature have vacations planned down south for January. We in this party are prepared to meet in January and come back and consider the bill, which is supposed to be a bill that responds to the most important and most serious economic crisis this province has faced since the 1930s.

If you feel your winter vacations are so important that you are not prepared to come back in January, then put that on the line. We in this party are prepared to come back and have this bill debated on third reading in January or February, whenever it is reported by this committee. Do not play silly games. Why don't you put it on the line that your winter vacations are more important than the parliamentary process? That's the bottom line.

Mr. Conway: Thank you, Mr. Chairman. I would like to briefly indicate a couple of concerns I have. I have only sat in on this committee on three or perhaps four occasions and on only two occasions was it for any length of time. One of those was last night. I made no secret to a lot of people around here that I felt embarrassed by what I witnessed here last night. I don't think Parliament was particularly well served last night by what I saw. I am talking more now as a private member. I feel this committee faces a very serious and immediate challenge in terms of how it is going to order its business.

I listened--as I try always to do--with particular care to the member for Riverdale (Mr. Renwick) whom I found to be learned in the ways of Parliament and its procedure. I want to say to the member for Mississauga North (Mr. Jones), who has moved the motion--and we are dealing now with the orderliness of it--that I don't believe we have heard--correct me if I am wrong--any kind of official advice from the clerk in the committee.

I have had the opportunity to discuss it with a number of the clerks, most of whom--off the top of their heads, as it were--tell me this is a very precedent-setting motion. They can't recall a time when this sort of a motion was proceeded with in the Ontario Legislature.

That gives me some considerable pause. If we, in this instance, rewrite the rules in a critical area by virtue of precedent, then I, as a reasonably cautious individual, want to think carefully about what the implications might be. I think Parliament has not been especially well-served and there is going to have to be a resolution of some of the difficulty which I have seen in this room. I don't want anyone to be under any misunderstanding of where I come from on that particular point.

I just want to indicate my own interest in as clear a direction as I can get from the Office of the Clerk of the House on what our traditions have been. We have had the motion for about an hour and many of us scurried around trying to lay our hands on precedents or past incidents which might be some guide to us in this case.

I heard the member for Riverdale indicate very wisely in his remarks to the member for Mississauga North--and unlike the member for Riverdale, the member for Mississauga North and I came only in 1975, so I don't have any remembrance of what the old days were like around here--that the framework that has been established for dealing with timetabling of committee business would be the preferred resolution to these kinds of difficulties.

In the past seven years and some months we have had a reasonably successful means of adjudicating the competing ambitions of various members and parties for the committee business and the committee time. I would like to think we could rely upon that framework to resolve the sort of problems that have bedevilled this particular committee's work in recent weeks.

Having said that, I want to indicate that before the vote is called on this point of order, I would like very much to hear from the clerk--as fully and as completely as he can advise--on the precedents, if any exist, within the Ontario parliamentary tradition for this kind of a motion. If we cannot easily get that this afternoon, given the importance of the issue, I would like to see the vote on the orderliness of the motion stayed until we get it.

Mr. Chairman: I don't think it is appropriate to have the clerk address the committee directly. If you wish, I could address that at this point or leave it until I am ruling on the point of order. What is the choice? Later? Thank you.

Mr. R. F. Johnston: Thank you, Mr. Chairman. The point of order that was raised by the member for Windsor-Riverside (Mr. Cooke) has been sort of expanded to other reasons why you might consider this out of order. I would like to be able to speak to them as well in terms of the time factor and the motion, etc.

I would mostly like to deal with this whole question of what your precedent should be in terms of making your decision; whether or not they should be Erskine May, or whether or not they should be the traditions of this House which have been fairly clearly set down. I would suggest and argue that it should first be the traditions of how this Legislature has operated, but if you are going to use another reference, Beauchesne would be the most appropriate reference to move to.

Mr. T. P. Reid: The standing orders provide that it be the traditions of this House first.

Mr. R. F. Johnston: Exactly. One of the things I would like to raise is this whole matter of the normal clause of clause and the whole question of the mandatory instructions which we received by agreement of the House leaders after long negotiations and fairly tough battles between the various parties in terms of how we would proceed with this bill after second reading. One of the items that has been used, I gather, in the view of the parliamentary assistant, is that we have somehow not been following normal clause by clause.

I would not repeat, but just echo, that the statements by the member for Bellwoods (Mr. McClellan) were right on. If you look at now we have worked in committees in the past, in terms of the time that has been taken to review important legislation, I would argue that this is as important a piece of legislation as we have ever seen.

I would like to suggest that if the points of order that were raised by this party were not in order, were not part of the normal process, then they should have been challenged. If they were challenged, they should have been ruled out of order. Since they were not ruled out of order in terms of their appropriateness before this committee, I would suggest that all of them were part of the normal clause-by-clause deliberations. We all accepted that or the chairman would have ruled them out of order.

Therefore, there is nothing in what we have done up to this point in trying to get ministers before us that was out of order in terms of the mandatory instructions that we were given by the House.

Mr. Jones: Are you saying, Mr. Johnston, that--

Mr. Chairman: I am sorry, Mr. Jones, you are out of order. If you wish to go on the end before Mr. J. M. Johnson, that is fine, and Mr. MacQuarrie also. Mr. Johnston, please continue.

Mr. R. F. Johnston: Thank you, Mr. Chairman. I will not respond to that. I think I have made the point, that if what we did was out of order and not part of the normal business, then it should have been ruled as such before now and not by this kind of extraordinary action that has been taken.

I would also suggest, as has been suggested before, that the mandatory instructions were set. We are all constrained by them from all our different points of view and we should work within them. The traditions of this House say very strongly that those agreements that are made are to be followed because they are a process of long deliberation. The member for Riverdale said you shouldn't just look at the instruction itself but at the process that was gone into to arrive at that kind of consensus between parties coming at this bill from very different points of view.

What we have now, if I may be so bold to suggest, is a majority government that doesn't like the rules that have been established at the moment, so it has decided to change the rules by going back to what is a really sloppy kind of a ruling by May which has nothing to do with our traditions. The member has already admitted that.

There is not one precedent to show that this has ever been done before in our House. In my view, it is not even appropriate to suggest that our committee work in the same way as the committees of Westminster. I would really like to see it shown how this could be a direct parallel and why it should be used in any way. I don't think that has now been shown.

You are changing the rules because we happen to be following them and fighting our side of the battle much better than you have been able to manage. I suggest it is extremely dangerous for you to ask the chairman to rule that he should change the rules in midstream just because you're being a little frustrated by our firm opposition to this bill.

4:40 p.m.

The other thing that I would like some clarification on--two things, Mr. Chairman--just who is the member in charge of the bill? I would like some kind of a ruling from you on that. It seems to me that generally one would presume that the member who is responsible is the one whose name stands on the bill--

Mr. T. P. Reid: And the one who's present.

Mr. R. F. Johnston: --and who has been present, well, from time to time--

Mr. T. P. Reid: Well, most of the time.

Mr. R. F. Johnston: I will just draw to your attention, Mr. Chairman--

Mr. T. P. Reid: And who gets the salary.

Mr. R. F. Johnston: --Bill 179, An Act respecting the Restraint of Compensation in the Public Sector of Ontario and the Monitoring of Inflationary Conditions in the Economy of the Province is under the name of the Honourable Frank S. Miller, not under the name of the undersecretary for restraint.

Hon. F. S. Miller: But he has the right to act on my behalf.

Mr. R. F. Johnston: I'd like a clarification on that at some point as to whether or not he has the right to act at this time. I understand you might decide to rule that way.

The other point I would like to make, because it has been raised before, is this whole question of what can be seen as

grounds for this kind of referral, even using Erskine May, which I would suggest to you you should not use. But even suggesting that you use it, it is very clear that the only grounds in which this can be moved by the member in charge of the bill is when there is no prospect of the bill being reported to the House in sufficient time to allow it to be considered by the House.

I would just ask the chairman to rule this out of order even on that basis, as has been said by the member for Windsor-Sandwich (Mr. Wrye), and that is that there are no constraints on us as to when this can come before the House. There are no constraints on us as to how long we would like to sit. That's up to the House to decide.

If this bill is important enough for us to go into the kind of detail I believe we should be going into on it, and having the kind of ideological battle needs to be fought over this, then by God we should be willing to sit into January. We have stated that we are willing to sit into January or as long as it takes to debate this bill through. There is no excuse for this kind of premature closure which is being moved today. We are under no constraints at all to be out of here by Christmas or by December 22 or whatever.

The House has the right to sit whenever it chooses. The House is under no constraint about this bill because it is backdated. You can put it into effect. The time is already causing further inequities--we know that--but the inequities in this bill are larger than those that are being increased perhaps by the continuation of this bill. It could be argued that we are buying some time for some people who otherwise wouldn't have some time bought for them. There's no constraint on that and therefore it's totally out of order.

Mr. Jones: Getting on with amendments to the act, making the bill better and the type of work--

Mr. Chairman: Mr. Jones, please. You are out of order.

Mr. R. F. Johnston: Mr. Chairman, because of that kind of interjection, you are being instructed by the parliamentary assistant that our amendments have not been appropriate amendments. Well, they have all been accepted.

Mr. Jones: Even the Liberals--

Mr. Chairman: Mr. Jones, will you give Mr. Johnston the floor?

Mr. R. F. Johnston: They have all been found in order. Therefore, it is his judgement as a partisan here that they are not appropriate. It is our judgement as partisans that they are appropriate. You have ruled them in order and therefore they are in order. It is not up to him to tell us that our amendments are not going to be as useful as the minister's amendments to an already bad bill.

We have time to go back into the House after we've debated this in committee. I would suggest to you that the traditions of this House say that you have to rule, Mr. Chairman, that this will be considered fully in this committee and not sent back prematurely like this by an arrogant majority government.

Mr. Chairman: Thank you, Mr. Johnston.

Mr. J. M. Johnson: I would like to just make a couple of comments, specifically to the other Johnston and the member for Bellwoods (Mr. McClellan). I would simply say that delay is the deadliest form of denial and that is exactly what we are facing here. The NDP is denying us the right to proceed with the bill and the Liberals are chipping right in and supporting it just as much.

Mr. Cooke: Speak on the point of order.

Mr. J. M. Johnson: On the public hearings we spent 33 hours, and that's fair enough; on the procedural motions, 31 to 33 hours, and that is inexcusable; clause by clause, 14 hours, and we are now on clause 1(c) and we haven't even finished it. At this rate we should be finished as, Mr. Johnston, says by January, but he didn't say what year.

Mr. R. F. Johnston: We're willing to sit until we're finished.

Mr. J. M. Johnson: Until 1985-86. It doesn't matter to you. You people don't want the bill and you are using delay for that reason.

Mr. Mackenzie: You are finally getting the message.

Mr. Chairman: Carry on, Mr. Johnson.

Mr. J. M. Johnson: The problem is they try to be rational and explain that we should use the rules that they like, and that is only reasonable. But when we invoke a rule they do not like, then that is a problem. I would like to suggest that if they would show some type of progress on the bill, if they would indicate at all that they were prepared to accept clause by clause debate in the sense that it was meant to be--

The member for Bellwoods mentioned a couple of acts, the Family Law Reform Act, and the standing committee on general government that just finished the Planning Act. They did take a year and a half or two years, and that is quite reasonable. But surely when we were called into this House in September to deal with an emergency issue, that does not mean that we should let it go for another year before we deal with it because the Liberals do not know which way to go and the NDP are set in their philosophy that they are not going to allow it to proceed.

Mr. Chairman: Order. I wonder if Mr. Johnson might keep from being provocative.

Mr. J. M. Johnson: Is that being provocative? I certainly did not mean to be.

I would simply say that because they leave no other choice in that they have refused to allow us to deal with clause by clause in any meaningful way, we have no alternative but to support the motion presented by the parliamentary assistant.

Interjection.

Mr. Chairman: Thank you, Mr. Johnson.

Mr. Cooke: Point of order. That is not on the motion.

Mr. Chairman: There being no further speakers, I will deal with Mr. Cooke's point of order.

He stated that the motion was not in order and referred to mandatory instructions, quoting them, and said that therefore the motion could not be put until the clause by clause was totally finished. Then Mr. Renwick referred to clause by clause and word by word.

I will deal with that only. First may I refer to the fact that Mr. Renwick and Mr. Richard Johnston made reference to Erskine May at page 506 and Beauchesne at page 230. I might point out that Beauchesne simply follows May and that is simply one reference rather than two.

I guess I will not deal with the matter of the parliamentary assistant unless Mr. Cooke wishes me to. Other people brought that up. That was not specifically in his motion. Am I correct?

Mr. Cooke: I think we went on to a number of points of order.

Mr. Chairman: No, we have one point of order. Would you like me to finish up the whole works?

Mr. Cooke: I think that would be appropriate.

Mr. Chairman: Shall I make one ruling on the whole works, on everyone's comments?

Interjections: Yes.

Mr. R. F. Johnston: Just to speed things up.

Mr. Chairman: Thank you. May I have a little time to follow my writing? I was making notes as you referred to them.

Mr. Jones is the parliamentary assistant to the Treasurer. The Treasurer was present and did not object when the parliamentary assistant moved the motion.

There is also the reference to May, at page 627. As you can see, it has been ruled by Mr. Speaker that such a motion can be moved only by the member in charge of the bill. Other members have, however, been permitted in particular circumstances to make such a motion. Therefore, so far as that is concerned, I rule that the parliamentary assistant's moving the motion is in order.

On the next one: I will not comment upon the realities of the Legislative Assembly as directed by Mr. Renwick to the Treasurer and the Treasurer's "technical arrogance" because that is not within the purview of the chair and it is a comment only.

Fourth, I will refer to the comments of Mr. Renwick and several people over there, including Mr. McClellan, as to the mandatory instructions. Yes, I have said consistently we are under those. That is totally agreed.

Mr. McClellan: I am sorry, just for clarification, are you then saying that the motion is out of order, by virtue of--

Mr. Chairman: No, I am saying we are under mandatory instructions. I could hardly reverse my view at this point.

Fifth, in the mandatory instructions that were referred to this committee by the House, if you will refer to them, it says at the end, "After clause-by-clause consideration is finished, the bill will be reported to the Legislature." Note that is after the clause-by-clause consideration is finished.

4:50 p.m.

I believe that "finished" does not mean that every clause is dealt with individually. To take that to its logical conclusion would mean that every bill could be stuck in committee through a whole session. Many motions could be stuck here.

Interjections.

Mr. Chairman: Gentlemen, I was quiet when you spoke. Please let me have a chance.

If you said that every word has to be quoted, this would make the references in May meaningless. Those examples that Mr. Wrye referred to at pages 626 and 627 would be meaningless. Those are examples of where it is moved back before it is "finished." Therefore, it is just common sense. I am having trouble with my writing. Common sense says that "finished" is when the majority of this committee says it is finished.

Let us refer to Ontario authorities. Mr. Conway asked about that and several other people said there was none. While it is not on all fours with the case at hand, it certainly is persuasive, and I have a close parallel and an analogy. These are in the journals.

On Friday, November 21, 1975, the 17th day of that session--it was a select committee, which makes it slightly different, it was also moved back to the committee of the whole House. At this point we do not know, I cannot anticipate, and it is improper to do so, whether this will be moved back for third reading or to the committee of the whole House. Those are two slight differences, and that is why I say it is not on all fours, but it certainly is an analogy to this point.

I shall read it, from page 48: "Mr. Williams, from the select committee appointed to consider Bills 20 and 26--"

Mr. T. P. Reid: Oh God, that is the worst reference you could find.

Mr. Chairman: "--presented the committee's report, which was read as follows and adopted.

Mr. McClellan: If you have confidence in Mr. Williams--

Mr. Chairman: "Your committee recommends that, for the purpose of clause-by-clause consideration of the bills referred to it, the said bills be reported back to the House for such consideration in committee of the whole House."

That is the closest authority in the Ontario House.

Seven, someone referred to this, and I think Mr. Renwick also said that Erskine May's work should not be referred to, but that we should be taking Canadian authorities. Someone said the British authorities should not be referred to. Mr. Renwick did refer to the standing orders, near the front, where it states that where something is not covered in the standing orders, precedents shall be referred to and, as in law, you go to the best and closest authority you can.

The last point I have is that there was the agreement. The three House leaders sought an agreement. That was later replaced by the mandatory instructions with which we are faced and under which we are sitting today. We have been reminded several times, even numerous times, by the House leaders that when this committee tried to go to them for suggestions as to procedures, it was always put back to this committee to arrange its own business within the mandatory instructions. Therefore, it is quite clear that agreement between the House leaders is not in any way binding upon this committee.

Interjections.

Mr. Chairman: The mandatory instructions are what this committee is operating under. Therefore, I am finding that the parliamentary assistant's motion is in order.

I am also reminded that it is not really--

Mr. T. P. Reid: The rubber man wins again.

Mr. Chairman: --necessary for me to rule things in order, only to rule them out of order. But technically, because people like explanations around here, I have therefore given it.

Mr. T. P. Reid: I know that is against the Tory philosophy, but we do like it.

Mr. Cooke: Mr. Chairman, if you have completed your ruling we will challenge your ruling.

Mr. Chairman: Yes. Thank you. Do you wish to challenge it now, at this moment? Are all members present?

Mr. R. F. Johnston: Did you want to wait a few minutes?

Interjections.

Mr. Chairman: All members are not present?

Interjections.

Mr. Chairman: Do you wish to put the question now?

Interjections.

Mr. Chairman: Mr. J. M. Johnson has asked, under standing order 89(c), for 20 minutes to gather the members.

Interjections.

Mr. Chairman: Order.

We will reconvene at 5:16 p.m. Thank you.

The committee recessed at 4:56 p.m.

5:17 p.m.

Mr. Chairman: Gentlemen, order. We are voting upon the challenge to the chairman's ruling. Will you answer the clerk as he calls your name, please?

The committee divided on the chairman's ruling, which was sustained on the following vote:

Ayes

Eves, Gillies, Gordon, J. M. Johnson, Jones, MacQuarrie.

Nays

Cooke, Mackenzie, McGuigan, Ruston, Wrye.

Ayes 6; nays 5.

Mr. Chairman: Mr. Jones, do you wish to carry on with your explanation of your ruling and speak to the debate on your ruling?

Mr. Jones: I did have a chance in speaking to Mr. Cooke's point of order to touch briefly on some of the reasons why I put this motion.

We have attended through the committee deliberations with the representations that we have had from a cross-section of

people affected and a lot of people commented. We found the debate, I think we would all agree, concentrating as we moved supposedly through clause by clause to amendments that, I would have to suggest to my fellow members of the committee, really had a lot of questionable merit towards improving this bill.

As you know, I believe the Liberal Party joined us in questioning whether the removal of "board" from this legislation, the removal of "minister" and the removal of "regulations" in the very interpretation of the bill at the very outset would add anything. For anybody to say that is anything other than silly, one would really have to be stretching a point.

I have to say that I can only categorize some of the procedures that we have experienced here in the committee as being simply obstructionist and gamesmanship by nature. The New Democratic Party says to us that it is following within the rules, but to ignore a member stepping intentionally outside the doors in order to be able to call for another--

Mr. R. F. Johnston: Talk to Jack Johnson about that.

Mr. Jones: Ours are never intentional. That is not intentional. That is a matter of members serving other duties and having other responsibilities within the House. I am talking about intentionally skipping out the door so that we can spend another 20 minutes not on our job of getting on with and improving this bill, considering it clause by clause and taking amendments, but rather frittering away that time.

The member for Riverdale (Mr. Renwick) today was quite unlike his debate in earlier comment on the bill. He started to become a little personal in questioning whether people were in their chairs. I have to say that I have attended, except for a very small measure of the debate, in one capacity or another, on some occasions on behalf of the minister and on others as a member of the committee.

I certainly feel strongly that we have deteriorated into almost a bragging by the third party that "You haven't seen anything yet," indicating that we are simply going to see more delaying tactics rather than getting on with the job of bringing this legislation forward, doing our proper job of reviewing it clause by clause and recognizing that it is an important part of this province's economic recovery program.

We know that the government in these proposals has in mind very specific desires to avoid increases in taxes, a cutback in services, a layoff of staff and the many other things we feel this bill is protecting against. Therefore, I simply remind all of us in the putting of this bill that it is not something we are doing lightly, as one of the members indicated, but rather moving this bill forward in the sense that we have made one more step to bringing it closer to seeing it come in and be part of the economic recovery program that the province has spoken to in the last budget and in job creation programs that the Treasurer has announced as recently as this week. I merely urge the members to join with me so that we can get on in getting it back to the House and one step further towards conclusion.

Mr. Chairman: Might I mention that we are carrying on from the list of speakers as they were perhaps an hour or an hour and a half ago prior to Mr. Cooke's point of order? Mr. Eves is next.

Mr. Eves: I'll make my comments very brief. I am supporting Mr. Jones's motion because I think that the New Democratic Party has made a mockery of these proceedings in the last five or five and a half weeks.

This matter was referred to the committee on October 19. We agreed that we would have two weeks of public hearings, which we did. You may recall that on the last evening of public hearings there were five or six other delegations that were to be heard. They were the ones that cried throughout the hearings that we needed to extend the time of the hearings beyond the two weeks that had been agreed upon. The proposal was submitted. It was agreed upon by the Liberal Party and the Conservative Party to hear the remaining delegations that were on the list for that day. It was one of their own members who recognized the clock at 6 p.m. and cut off the debate, contrary to the wishes of the Conservative and Liberal parties on that occasion.

Since that, we went in to two and a half weeks of motions on procedural matters when we were supposed to be doing clause by clause. That delayed the bill for another two and a half weeks. There has already been over 30 hours of debate in the House on first reading.

Mr. Cooke: Second reading.

Mr. Eves: Pardon me, second reading. You are quite correct, Mr. Cooke. You are very good at correcting people.

We have now been on one week of clause-by-clause debate. We are on clause 1(c). The only reason we are at clause 1(c) is that government members have had to introduce--in our opinion, anyway--closure on at least two occasions to get to the third clause in the bill. Perhaps we would still be doing clause 1(a) if we chose not to invoke rule 36.

Mr. R. F. Johnston: Ridiculous clauses.

Mr. Chairman: Mr. Johnston, please.

Interjections.

Mr. Chairman: Mr. Jones and Mr. Johnston, please. Mr. Eves has the floor.

Mr. Eves: In my humble opinion, the public is not being served and democracy is not being served by prolonging this charade any longer.

Mr. Gordon: I have to say that this has been a curious time warp that this committee has been exposed to and there has been a minority tyranny at work here. I think it is time that this bill went to the House where it can be debated.

Mr. Laughren: I believe there are a number of reasons why members of the committee should not support Mr. Jones' motion. One is that we do have an agreement that we will debate this clause by clause in the committee. Another reason is the significance of the legislation. It is a very significant piece of legislation. When the member for Parry Sound (Mr. Eves) claims that we are making a mockery of democracy by a prolonged debate, he might very well ask himself what it is that this legislation is making a mockery of itself. It is making a mockery of collective bargaining. It is making a mockery of contract law in the province of Ontario. You might be better served to ask yourself those questions.

Mr. Eves: We might be better served by discussing it clause by clause with the bill.

Mr. Chairman: Order, Mr. Eves.

Mr. Laughren: I should remind the member for Parry Sound that his members have discussed the clause-by-clause motions as well. I should remind him that it is not just the New Democratic Party that is opposing this motion to send the bill back to the House. The Liberal Party is opposing it as well.

I won't dwell on the Liberal Party. They voted for it in first reading and second reading and will vote for it on third reading and will oppose everything in between, which is a very strange behaviour for a responsible political party in the province. But I won't dwell on that because I would be out of order.

Mr. Ruston: It never bothered you before.

Mr. Laughren: I would point out to the chairman that perhaps his colleagues on the Conservative side need to be reminded of the difference between a filibuster and a prolonged, impassioned debate. Do you really think--and I am serious about it--that we do not have an obligation to engage in a prolonged and fierce debate on this legislation?

5:30 p.m.

I suspect the senior people in the cabinet who drafted the legislation knew exactly what they were doing and anticipated that they would have a very fierce debate from us. I've only been a member 11 years, but during that time I have never seen us engage in a prolonged debate of this nature. I have never seen legislation that was, quite frankly, as vicious as this.

The members of the Conservative Party caucus have been telling us that we're engaging in a filibuster. I think the inflexibility of the majority on this committee has been something to behold in itself. Right from the beginning, it didn't matter who we wanted to bring before the committee, the Minister of Labour (Mr. Ramsay), for example. You stonewalled us all the way. There was absolutely no flexibility on your side at all.

Why do you think it is unreasonable or why do you think we are engaging in a filibuster if we request the Minister of Labour to appear before this committee and talk to us about this legislation? Why is there anything wrong with that? Explain that to us.

Mr. Jones: You say you want to follow within the rules. There are all kinds of precedents--

Mr. Chairman: Mr. Jones, Mr. Laughren has the floor.

Mr. Laughren: That is total and absolute nonsense. That is incorrect.

Mr. Ruston: Send him outside for a conference.

Mr. Laughren: The member for Mississauga North doesn't seem to understand that we're dealing with legislation that makes a mockery of a lot of things which we feel very strongly about. We have an obligation to engage in prolonged debate on it and to attempt to make you see the wisdom of our ways.

You say you feel very strongly about this legislation, but every time we ask you for information, you refuse to give it to us.

Mr. Jones: That's not so.

Mr. Laughren: That is true.

Mr. Jones: I myself last night--

Mr. Laughren: No, that's not true.

Interjections.

Mr. Chairman: Mr. Jones, order.

Mr. Laughren: When we ask to see the regulations, what do you do? You stonewall us. You say, "No, you cannot see the regulations." When we ask to have the Minister of Labour come before us, you say, "No, you cannot have the Minister of Labour come before the committee." Those are not unreasonable requests.

Mr. Cooke: What about Jack Biddell?

Mr. Laughren: That's correct. We also asked to have the person in charge of the Inflation Restraint Board before the committee.

You also engaged in your little games, using words in the bill that are, quite frankly, deceitful. For you to say that this is an Inflation Restraint Board instead of a compensation restraint board is misleading to anybody who reads that bill. It's not even the title of the bill, but you misname the board that's being established.

Interjection.

Mr. Laughren: Wait a minute now, let me finish. The Treasurer is the minister who is responsible for this bill, yet who is the minister when you get into the bill? In the definitions, "'Minister' shall mean the Minister of Consumer and Commercial Relations."

Mr. Jones: Now who is misleading? That has to do with parts III and IV and that's under a different section.

Mr. Laughren: No, I'm talking about the very first part of the bill. You are trying to give the impression that price restraint is important because the minister is named in the definitions section. You and I both know that's not the significant part of this bill. You know that and yet you refuse to acknowledge it.

In conclusion, I would ask the members of the Conservative caucus to reconsider this closure motion. That's what it is. There is much to be gained by engaging in a full and open debate in this committee. You may not be happy with the progress, but I've seen nothing that indicates that there is a panic in getting through this bill. It's retroactive. Why won't you engage in a full and open debate with us on this committee? Why won't you let the people come before the committee so that we end up with a better informed public?

Is that the problem? Is that what you're worried about? You don't want that to happen?

Mr. Jones: We've had the public.

Mr. Laughren: No. We have not had the ministers before us on the clause-by-clause debate. That's what we want and you will not give us that. I don't believe that is an unreasonable request.

Mr. Mackenzie: Mr. Chairman, when I first saw this bill after it came into the House on September 21, I took the opportunity at the next meeting of our caucus to put on record that we hadn't seen a piece of legislation that was as mean, vindictive and dangerous as this particular bill in the seven years I have been in the House. If anybody wants to argue that we're doing everything under the sun to stop the bill, to allow people to realize just how dangerous this bill is, then I am more than willing to take some of the blame for it.

This bill negates workers' hard-won rights. It removes the right to strike. It removes the right to arbitration, which was the saw-off for the right to strike for tens of thousands of government employees. It gives fantastic powers to one man in the Inflation Restraint Board who doesn't have to give a reason or any written judgement if there is an appeal of any kind. It's legislation that I haven't seen the like of in my short seven years in this House. It's a bill that's dangerous to everything we stand for in the province.

I just wonder when we are going to reach an honest position. Something has got to cut through all the gentlemanliness in this House and all the clubby atmosphere that has been here, because we are fighting a basic fight over something. When do we reach that position? As far as I am concerned and as far as any weight I have in my caucus, that position was reached with the introduction of this bill. It will go as long as we can make it go.

We have worked within the rules. Does majority government and the right to govern mean you can use the rules, including closure, and decide how and when you're going to end this bill, but those in opposition can't because that means they are filibustering? I don't think the argument holds water.

We have seen further evidence of some of the arrogance. We have a Minister of Labour who didn't have the guts or wasn't allowed--I am not sure which--to speak on the bill in the House or appear before this committee. He has already cranked down the arbitration procedures in the public sector. There are some vital cases there, as anybody who is involved in them knows.

I had an uproar at the convention at the Ontario Federation of Labour yesterday. The hospital workers told us that right in the middle of negotiations at one hospital--and this memo is dated November 23--they were told the person they were negotiating against would be replaced because he had been reassigned to work for the Inflation Restraint Board. The more you look into it, the dirtier the bill gets.

That's what we're up against, and that's one of the reasons we are fighting the damned bill. When you see those kinds of actions, and when not one single minister that is going to have to carry the can for this bill--Labour, Education, Government Services--speaks on it in the House, you begin to wonder what in hell we're facing in Ontario.

This is a dangerous piece of legislation. Anybody that has any concern over the fundamental rights of workers in this province should be as concerned as hell about this bill. I make no apologies for it. As long as I've got any ability in that House, I'm going to be fighting this bill. I'm damned proud that my colleagues in our caucus have decided to take that same position. The government had better understand it.

I'm sure you're going to get it through. You're going to do it by closure or whatever other procedures you've got. But there are people in Ontario who are being hurt, who are going to know that some politicians are still willing to fight an issue like this in the House. I think it's absolutely essential and I do ask the Tory members to come to their bloody senses.

What are you going to gain by moving this into the House? It's not going to end there. There is no common sense in what you're doing, apart from the dangers you are presenting us with in the legislation. It doesn't make sense. Please come to your senses. The ends don't justify the means, and that's what you're giving us right now with this motion.

Mr. Wrye: Mr. Chairman, we have decided we will not support this motion, and there are a number of reasons for that.

Mr. Laughren: It doesn't go far enough.

Mr. Wrye: I'll ignore the interjections which, as usual, are so rudely put by the members of the third party, who apparently--

Interjections.

Mr. Chairman: Order.

5:40 p.m.

Mr. Wrye: --are quite prepared to have everybody listen to them but never listen to anyone else. I suppose one of the things that bothers me most is that when we called the question on whether the chairman's ruling would be upheld, there were two Tory members who were away and who hadn't even heard the chairman's ruling, yet somehow miraculously managed to vote to uphold the chairman's ruling. It was a seven-point ruling, but these members somehow managed to know what the chairman had said. Perhaps they have a speaker from this committee up into their offices.

As a member of this committee, I have been here virtually all the time from day one. One of the most important processes this committee went through was two weeks of public hearings, during which ordinary members of the public, leaders of the trade union movement, business leaders and others came before us to argue for or against the bill, to suggest its withdrawal, to suggest amendments, to show us ways that it might be improved, and in many cases to suggest to us it couldn't be improved.

I and a number of colleagues from all three parties sat and listened patiently for two weeks. It seems to me that's the very reason why this committee should continue to deal with this bill. Over the two weeks I think--I hope--those of us who sat on this committee got something of a sensitivity. I don't think for one minute that I'm going to agree with Mr. Mackenzie on his basic belief that the bill should be withdrawn. However, I do think there may be at some point, as clause by clause goes forward, perhaps--

Interjection.

Mr. Chairman: Order.

Mr. Wrye: --a sensitivity between Mr. Mackenzie and myself and between perhaps even other Conservative members that when certain amendments are put by my party, by the New Democratic Party or by the Conservatives they might be supportable.

As you know, Mr. Chairman, we did not support the first two amendments the NDP put forward. We were not prepared to support their third amendment, but we had one of our own which I think a

number of the NDP members spoke to. That was that the regulations should be brought before us while we were considering clause-by-clause consideration. Unfortunately, we never got that amendment on the floor because the government moved through the use of closure. That is why we opposed closure on that occasion and that is why we did not vote to pass clause 1(c).

It is terribly important to me that the committee members who started this process some time ago should see it through. I wonder at the reason behind the motion. Mr. Jones' motion does nothing but transfer the problem we have had in this committee. I have sat here long enough to know we have had a problem.

We have been at this for some three or four weeks now. The clause by clause began on November 3, we have been at it ever since and we are still on section 1. We have had a problem, but we are simply going to be transferring the problem, if the Conservative members do not come to their senses, up to the main Legislative Assembly. Instead of this committee being ground to a halt, we will grind the whole Parliament to a halt.

If the government members feel we are not serving the public well, I don't think that will serve the public any better. I suspect it may serve it a whole lot worse. When we get to the House, we will have to move into clause-by-clause consideration in committee of the whole House. Lest anybody has forgotten, we have a total of 19 amendments. We wish to see those amendments debated and discussed--some at fair length--in clause-by-clause consideration. They are, in our judgement--and the House will rule in its wisdom--important amendments.

They are amendments which speak to many of the concerns witnesses raised with us over two weeks of public hearings. It is our desire to see them debated in a reasonable and rational manner. We believe the best place to have that debate is right here in this committee where many of the members took part in the public hearings. If the government will not change its mind, if the parliamentary assistant will not withdraw his motion, we will go to the House and move our amendments, but I do not believe that we are going to do anything to speed up the process. I believe we are taking a truly unprecedented step. My friend the member for Scarborough West (Mr. R. F. Johnston) says it is a dangerous step, and I sense it is that as well, a very dangerous step.

I suggest to the parliamentary assistant that he might want to reconsider his motion--he is going to have lots of time over night because I don't believe we will come to a vote this afternoon--and that he might give some consideration whether the gains, whatever he imagines them to be, of sending this bill back to the House at this time are not outweighed by the fact that a deal that was struck by all three parties is now about to be undone by one party using its majority as if the minority does not need to exist and is not important in the overall legislative process.

I do not wish to prolong things other than to reiterate that my party will not support the motion.

Mr. MacQuarrie: Mr. Chairman, I think really all of us have some difficulty with this whole situation. The government, when the bill was introduced, indicated quite clearly that it was not particularly pleased in bringing the bill forward, but in view of the position which the Ontario economy is in, and in view of the necessity for some very drastic action to try to get things moving again, the bill was brought forward and received first and second readings.

At this committee something very peculiar happened. In approximately three weeks or so since the public representations were concluded, I come to the committee as a substitute and I find that the committee is still dealing on clause by clause. When the House had indicated that clause by clause should start on November 2, here we are today, November 24, on section 1 of the bill, the definition section, the most simple section, really, of any bill, and we are bound up in that.

What happened? I hear, and I saw some considerable evidence of it, that there were purposeful delays, very deliberate, purposeful delays, delays in bringing the bill forward, delays which, instead of threatening the rights of the minority, were really sort of pushing around the majority. I think the time has come, the time is on us now, where we have to move forward with this legislation, where it is essential in the interests of the economy of our province that the legislation come forward.

I don't think any of us are particularly happy with the manner in which it is being done, but I would say that we have been, to all intents and purposes, forced into this decision and I would strongly support the motion of the parliamentary assistant.

5:50 p.m.

Mr. Rae: Thank you, Mr. Chairman. It was Yogi Berra who said, "It's not over until it's over." Apparently the majority on this committee thinks that they can overrule Yogi Berra. That is one authority that I don't think is in the jurisdiction of the committee to overrule.

In our view, this bill is not over until it is over. I think people should understand that there is something quite fundamental going on, not only in this committee but in the whole of the province, that goes beyond the traditional differences of opinion or the traditional arguments about policy in Ontario.

Mr. MacQuarrie just said that this legislation is something to get the economy moving again. This legislation doesn't have anything to do with the economy. This legislation is legislation which interferes in, breaks and destroys contracts, collective agreements, bargains that have been struck in good faith by employees and the government and other employers in the public sector. It destroys a pattern of industrial law and industrial jurisprudence that has grown up in this province, not in the last two years or five years, but in the last 100 years. It gives unilateral power to one individual which, as I said in my remarks

earlier, takes administrative and labour law in this province back to the stone age. There is no other way to describe this legislation. This is pre-McRuer legislation with respect to due process and administrative process in this province.

To describe it as arbitrary is to do it a favour, and that is why our opposition to it has been so fundamental and that is why, like Mr. Mackenzie, I not only make no apology, but I think it is fundamental for an opposition party worth its salt to oppose this kind of arbitrary legislation.

Let me ask members of the Conservative majority if legislation were passed which destroyed contracts in the private sector between business partners, which destroyed commerce because it made contracts impossible, which overruled all kinds of decisions by the Milk Marketing Board of Ontario and simply tore them up, or between any group of producers of any kind whatsoever, I wonder if they would be quite so quick to jump on the bandwagon and say this is simply legislation that is designed to get the economy moving again.

This legislation interferes fundamentally with relationships, with institutions that are democratic, that are as democratic as any other relationships that exist in this province and which are being broken unilaterally by a government and by the majority.

With respect to this motion, the substance of the motions of a procedural nature that have been presented by our party have been designed to broaden the debate within this Legislature and to allow us, as members of the Legislature, to cross-examine ministers who are directly affected by this legislation and whose relationship with their own employees is going to be directly affected. In the case of the Attorney General (Mr. McMurtry), despite the interventions we have made at some length with respect to the impact of this legislation on freedom of association, we have had no indication from the Attorney General as to how he feels on that issue.

Freedom of association means something. Freedom of association, in the view of our caucus, means the majority cannot do everything it wants to do to interfere with collective bargaining. It means that certain democratic rights with respect to collective bargaining are now part of the constitution of this country and the constitution of this province and are not something that can be taken away unilaterally by the province.

If the Attorney General of Ontario disagrees with that view, why in the name of goodness doesn't he come down here and tell us? Why doesn't he have the courtesy to come forward and say to members of our party who put forward this point of view, "I disagree and these are the reasons"? That's how law works. That's how the process of education works, by means of a reasoned dialogue. If the finger or filibuster is going to be pointed at any party, it has to be pointed at that majority which has refused, at every turn, every request that has been made by us to have members of the government come forward and give us their view on this issue.

With great respect to the Treasurer, he is competent to tell us how this legislation will affect the economy of this province, but he is not in a position to tell us what the impact is going to be on collective bargaining throughout the province. He is not in a position to tell us how it affects arbitration awards that are currently being decided upon. He is not in a position to tell us in any great detail the impact that it is going to have on hospital workers and nursing home workers and people who take care of the public of Ontario from the time they are born to the time they die. That is why the Minister of Labour (Mr. Ramsay) should have been here; that is why the Minister of Health (Mr. Grossman) should have been here.

Finally, I would say that the Conservative majority is ignoring something quite fundamental, and that is the reason that procedures are important is because they protect minorities. Nothing that has been done by this party has been contrary to the rules. If it ever was, it could have been ruled out of order by the chairman, the chairman's ruling would have been upheld and we would have proceeded with it.

This motion makes a mockery of the agreement between House leaders. I can assure you it is going to lead to a serious deterioration of any relationships with respect to future agreements; it is impossible that it would not have that effect. I believe it is going to cause greater problems for the government than they appreciate.

It is not my intention to hold up the proceedings of the committee or to delay the vote in any way, but I did want to indicate very, very strongly, on behalf of the party, the strength of the views that we have on this issue.

Mr. Cooke: Mr. Chairman, I am prepared to forgo my comments if you want to get the vote over before six. If it is not going in before six, I will make my comments.

Mr. Chairman: We have Mr. Jack Johnson and Mr. Renwick yet on the list. It is up to those speakers. Mr. McClellan has already been removed at his request.

Mr. Renwick: I have a brief comment, Mr. Chairman, if I may be permitted it.

Mr. Chairman: Mr. Johnson, what about you?

Mr. J. M. Johnson: Let Mr. Renwick make his point.

Mr. Renwick: You are ahead of me on the list.

Mr. J. M. Johnson: I would like to make a few comments and just reply to Mr. Rae's statement about the concern about labour and the labour movement.

Mr. Cooke: Is this going until tomorrow?

Mr. J. M. Jonnson: I would simply like to say that I come from a rural riding, Wellington-Dufferin-Peel, that has a lot of small merchants, small farmers, a lot of people who are being hurt quite badly.

We are talking about a restraint program that basically says that labour will be held to a five per cent increase, at least the public sector. I find that a lot of my people won't even see a five per cent increase, let alone contemplate anything close to it.

I am really offended by an article that appeared in the Sun today, in Claire Hoy's column, and you have no doubt had it brought to your attention. I think possibly it must have been a misquote because I cannot believe that Sean O'Flynn, the president of the Ontario Public Service Employees Union, would actually say, "We will encourage our members to break the law if this bill comes into force."

Surely we have a responsibility to obey the laws, not only of the province but of this country. For someone of that stature to make such a statement makes a mockery of the fact that we are here today. I fail to understand how we can be talking about procedural affairs and problems that we are having, and trying to resolve things, with statements such as that. It certainly doesn't add anything to the debate, the contemplations we are trying to make or anything else that goes on around here.

Quite frankly, I fail to understand why the parties have taken such a strong stand opposed to getting into the clause-by-clause debate. We have had four weeks of debate in September and October in the Legislature on the pros and cons of the bill. We have had weeks of public hearings, 33 hours. We have had 32 hours of procedural motions, as I mentioned, and 14 hours on clause by clause. There is something drastically wrong. If we are interested in a clause-by-clause debate, then how come we haven't advanced beyond clause 1(c)?

Mr. Renwick: Mr. Chairman, I will only take about one and a half minutes.

I am very curious. This bill is obviously going to be reported back to the House. In what particular way--Mr. Wrye brought this to my mind--does he think we will have an opportunity in committee of the whole House?

I will be interested to see what kind of process is developed in the House to preclude clause-by-clause discussion in the committee of the whole, considering the provisions of the standing orders that bills reported from standing committees shall by unanimous consent also be ordered for third reading. We know what the practice of the House has been. I will await with interest the way in which the government decides to move on that particular matter.

I want, sir, to quote only the first paragraph of Beauchesne's book, which happens to quote from the first paragraph of Sir John Bourinot's book--if I may interpolate, this is what

Mr. Jones called in aid when he introduced this particular nefarious motion--"The principles that lie at the basis of English parliamentary law have always been kept steadily in view by the Canadian Parliament. These are: to protect a minority and restrain the improvidence or tyranny of a majority; to secure the transaction of public business in an orderly manner; to enable every member to express his opinions within limits necessary to preserve decorum and prevent an unnecessary waste of time; to give abundant opportunity for the consideration of every measure, and to prevent any legislative action being taken upon sudden impulse."

I want to conclude my remarks by saying to the government that they came to this committee under the misapprehension that there was something of a mock-serious nature about the New Democratic Party's position on this bill. Nothing that we could say has removed that from their minds.

I ask anybody--also those members who are here intermittently--to read in the proceedings of this committee the comments of my colleagues on the particular matters which have been put forward. To suggest for one single moment that this party has been engaged in something of a mockery of the tradition is to not comprehend the attitude which has been so well expressed by my colleagues and particularly by my colleague the member for Hamilton East (Mr. Mackenzie).

Mr. Chairman: Those being the speakers, shall we vote on the matter? All the members being present--

Mr. Renwick: Mr. Chairman, may I raise a point of order.

Mr. Chairman: Yes, Mr. Renwick.

Mr. Renwick: I noticed in this interesting piece Mr. Jones has produced that it says: "If the motion is agreed to, the chairman is then ordered to report the bill to the House without amendment or with such amendments that the committee has made. The chairman is directed to apply to the House for leave to make a special report and the committee makes a special report setting out the facts of the case."

Have you, sir, given any consideration to just what that means?

Mr. Chairman: Yes, Mr. Renwick. You are reading from one of the texts about a special report.

The first part of that is where the report is not part of the motion. It is part of Mr. Jones' motion that it be reported to the House at this time. I've looked at that last sentence, "The chairman is directed to apply for a special report." Yes, I have taken advice and it is believed that instead of making a report, as is normal by the chairman for committee reports, it is termed a "special report" and the committee report is called a "special report."

I've put it in the same type of phraseology as one would with a directorship, the special resolution and a resolution--not that there is some special separate procedure that now takes place to develop a special report and leave be applied for separately to the House to get a separate report. Is that satisfactory?

Mr. Renwick: I was just curious about your comments.

Mr. Chairman: Yes, I have considered it. I guess that is the bottom line. Thank you.

The committee divided on Mr. Jones's motion, which was agreed to on the following vote:

Ayes

Eves, Gillies, Gordon, J. M. Johnson, Jones, MacQuarrie.

Nays

Cooke, Mackenzie, McGuigan, Ruston, Wrye.

Ayes six; nays five.

Mr. Chairman: It being past six o'clock, this committee adjourns until the next call of the chairman.

The committee adjourned at 6:02 p.m.

Lacking J-65-72, 1982.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
RESIDENTIAL COMPLEXES FINANCING COSTS RESTRAINT ACT
MONDAY, DECEMBER 20, 1982
Afternoon sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Epp, H. A. (Waterloo North L) for Mr. Breithaupt
Fisn, S. A. (St. George PC) for Mr. Stevenson
Kolyn, A. (Lakeshore PC) for Mr. Mitchell
Philip, E. T. (Etobicoke NDP) for Mr. Renwick

Also taking part:

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
Foulds, J. F. (Port Arthur NDP)
Kennedy, R. D. (Mississauga South PC)

Clerk: Arnott, D.

Witnesses:

Dick, N., Union of Unemployed Workers
Doumani, R. G., Solicitor for Urban Development Institute
Engelberg, M., Solicitor for City Park Tenants' Association
Krehm, W., General Manager, O'Shanter Development Company
Somerville, H., Chairman, Tenants' Association, 41 Dundonald
Street, Toronto
Trottier, T., Chairman, Federation of Ottawa-Carleton Tenants'
Associations

From the Bathurst-Eglinton Tenants' Association:

Fink, R.
Gardner, K.

From the City of Toronto:

Foster, M., Alderman, Ward 5
Sewell, J., Alderman, Ward 6

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, December 20, 1982

The committee met at 3:22 p.m. in room 151.

RESIDENTIAL COMPLEXES FINANCING COSTS RESTRAINT ACT

Consideration of Bill 198, An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes.

Mr. Chairman: We should start the day according to the motion last Friday of Mr. Stevenson regarding Bill 198. Copies of Hansard have been handed around to the various members, and according to that motion we are scheduled to commence hearing at 3:30 with the first group who applied, may I say, or made representations or contacted our clerk. That is the Federation of Metro Tenants' Associations.

Now, may I bring to your attention two matters. First is a memorandum from Michael Cassidy, a copy of which I believe was handed to each of you at some point today, I received mine at about 10:30 this morning, stating that a Mr. Trottier, on behalf of various Ottawa tenants, the president of the Ottawa-Carleton Federation of Tenants' Associations, wished to appear before us and would be here today. If he is here, would he hold his hand up please. Yes, he is here.

Mr. Cassidy requested that he be here, I think Mr. Philip probably has some representation to make on it.

Second, today near the end of question period I was handed a letter from John Sewell, alderman of ward 6 of Toronto, stating that he wished to trade places with the Federation of Metro Tenants' Associations, and had dealt with Dale Martin, president of that association and they wish to switch 3:30 this afternoon until 7:45 p.m. this evening.

What are your wishes, gentlemen? You have the motion of last Friday.

Mr. Epp: I see no problem with that. They are both amenable to the change. I would move that we make the change.

Mr. Chairman: That is a motion. Any other discussion on that?

Mr. Philip: That is reasonable to us. We accept that.

Ms. Fish: It is acceptable to us as well. It seems to be in the spirit of the motion as put.

Motion agreed to.

Mr. Chairman: The next thing, we have one spot at 5 p.m.

this afternoon. The party or group scheduled to speak to us, Andes Y. Kwok, has cancelled out. What do you wish us to do with the 5 p.m. spot?

Mr. Epp: I appreciate the position the Ottawa-Carleton tenants' associations are in. I think it is only reasonable that they should be heard, given the fact that we have a slot there that they can be heard in. They have come some distance to be heard, and it is only reasonable that someone from outside of Metro should also have an opportunity to be heard. I would move that they be put in the 5 p.m. spot.

Mr. Chairman: Do keep in mind that there are 32 groups that wish to appear before us, and of course the motion will only take 16.

Mr. Philip: I was going to suggest that; I think it is unreasonable that they come this far and not be heard.

Ms. Fish: It is also acceptable at our end. We would be supportive of that change.

Mr. Brandt: A question in regard to the motion. How many of the groups now are from out of town, out of the total that will be heard?

Interjection: Nine.

Mr. Brandt: Speaking in support of the motion that has been proposed, I just wanted to inquire as to the number of groups that are from out of town in the total that have been approved.

Mr. Chairman: At this point, I have no idea as to the allocation of--

Mr. Brandt: It is fair to say that the vast majority, if not all of the others, will be from the Metro Toronto area.

Mr. Chairman: Certainly the majority are. May I point out that the clerk has rescheduled the 5 p.m. person to 9 p.m. this evening. As a result of the cancellation of the 5 p.m. person, number 17, the next one on the list, Parkdale Legal Services, was therefore scheduled for 9 p.m. That was using up some of the slack of Mr. Stevenson, to use his expression. Mr. Swart?

Mr. Swart: I think the question asked by the member for Sarnia is a very pertinent one. Do we not have a list at this time of all of those who are going to attend, and if so, can you not give us an indication? The only list I have is for this afternoon. Is the evening list not ready? Are there others from out of town?

It seems important to me that there be a representative group, and I would point out that although I was not here on Friday because I had other commitments, it is important that we have representation from across the province. Obviously, when it is first come first served, the closest to here are often the ones that get on the list first.

Mr. Chairman: Do keep in mind that at 3:30 we are starting with the 3:30 witness, and it is exactly 15 minutes for presentations and answers. We have a motion and a vote yet to put. Whatever you want to say is going to happen in two minutes.

Mr. Philip: I have two things. One is that the last time the Federation of Metro Tenants' Associations appeared they had such large numbers that it was uncomfortable to hold our hearings in this room. I am wondering if, since they are coming this evening, if it wouldn't make sense for our clerk to make arrangements for the hearings to be held in a larger room.

Mr. Chairman: First, with regard to that, the motion of Friday deals with that, and it would take another motion--you have read it; it says specifically that it will be in this room and no change will be made--and vote on that to amend that, before 3:30.

Mr. Philip: I will move that the--

Mr. Chairman: You can't move. We have a motion on the floor; Mr. Epp's motion is still on the floor.

Mr. Philip: Then let's move to carry the motion.

Mr. Chairman: It was Mr. Epp's motion that we take the Ottawa group, Mr. Trottier, at the 5 p.m. spot.

Motion agreed to.

Mr. Chairman: You wanted to make a motion, Mr. Philip?

Mr. Philip: I move that, in the light of the large number of tenants that are expected this evening, we instruct our clerk to book a room that is more suitable for us, namely in the Macdonald block, or any other place that can provide greater facilities for them to sit down in a comfortable way and listen to the presentation made by their representative. I would further move--

3:30 p.m.

Mr. Chairman: No, one motion.

Mr. Philip: I would further move that we commence sitting at 7 p.m. in order that we may--

Mr. Chairman: That is a different motion; that was also dealt with unanimously by the committee last day, with representatives of each political party.

Mr. Philip: The normal protocol of a chairman is to advise the critic when schedules are being set. If I was in the House, you could at least have the courtesy to send me a--

Mr. Chairman: No, no, you had representatives of your party here who voted for this; there is no further duty on me.

Mr. Philip: They also asked that we start sitting at 11 in the morning.

Mr. Chairman: I am sorry, we have a motion, we will go on that, and the previous motion said we go at 3:30 with the first scheduled group and that's it. It is 15 minutes and we are not going to deviate.

All those who are in favour of Mr. Philip's motion to moving the hearings for this--

Mr. Watson: We haven't had an opportunity to discuss this.

Mr. Chairman: At 3:30 we begin, Mr. Watson. We had a discussion about this on Friday.

Mr. Watson: Some of us missed a lot of things on Friday because we stayed for this and we hammered it out and there is a motion there and I see no reason for changing it.

Mr. Chairman: Yes. Correct. That is what we are dealing with.

Motion agreed to.

Mr. Chairman: The committee will change its place of residence this evening on a majority vote, 6 to 4, and it is reversing the decision made on Friday. The clerk is so instructed. So be it.

It is 3:30. Alderman Sewell is the first one starting at 3:30 until 3:45. Gentlemen, I will draw your attention to the fact that presentation, questions and answers stop at 3:45 for each 15 minute interval.

Alderman Sewell: Thank you very much. I am very pleased that you could accommodate the change in time between myself and the Federation of Metro Tenants' Associations.

Mr. Chairman, I represent ward 6 in downtown Toronto. It is a ward that is not made up entirely of tenants, but it is a ward in which I guess 75 or 80 per cent of the people who live there are tenants.

They live in apartment buildings of all sizes, from two- and three-storey walkups to the highest buildings around, such as 44 Charles, the Manulife Centre. They live in houses, they live in converted buildings. As one politician who has recently gone through an election, I think I have some idea as to the concerns that are on the minds of the people who live in a place like ward 6.

What I find, and what we found during the election, is that all tenants are worried about rent increases. Almost every building we worked in recently had been through a rent review hearing. Some buildings have strong tenants' associations, some have weak tenants' associations, some have none. But there is a

great deal of worry among all of those tenants about what is going to happen to them.

Some of those worries, as you might imagine, are without foundation. Others are with foundation. That is what more than anything tells the story of what is happening today--all tenants are worried. From a political point of view, the best thing we can do is help tenants try and defend themselves. I and some of my colleagues on city council are trying to do that by helping tenants form strong organizations.

The only way they can defend themselves from rent increases is at the rent review hearings. Of course, we have many tenants who are not subject to that. To give an example, during the last four weeks, three new buildings have been organized in ward 6 through the help of myself and Jack Layton, the other alderman.

One was a small building where everyone was facing a 25 per cent rent increase. Another was a building where people were facing a 36 per cent increase--in some cases, a lowering, because they were attempting an equalization--and in the third building they were facing rent increases of up to 42 per cent.

On top of these three buildings, of course, are all the problems relating to the sale of the Cadillac Fairview Corp. Ltd. units. We have not yet had a meeting of people who live in buildings that were owned by Cadillac in ward 6. We have a number of them, but we haven't even faced that problem yet.

The legislation, for its part, assumes two kinds of problems have to be dealt with. One is the problem of the sale of the buildings; the Cadillac Fairview situation. The second is the problem of equalization. We have found that there are a number of buildings, at least in the riding I represent, that are not covered by the legislation as it relates to sale.

They have been excluded from the legislation because the sale happened earlier, and the rent review hearing happened earlier than the end of October. They received no protection from the legislation. With regard to the buildings that are facing equalization, we think the landlord will be attempting to justify an increase on other grounds.

The problem of this legislation, as I see it, is that in assuming the two problems of sale and equalization, it is missing the real problem which is the fear of a rent increase. Most tenants feel landlords can get massive increases no matter what the legislation happens to say.

We have examples in ward 6 where that has happened. After a rent review hearing, a landlord managed to get a 33 per cent rent increase. So in addressing those two problems, the legislation does not deal with what is on peoples' minds. This is my own particular concern; that if the legislation stands as it is, it won't be helping very many people.

My own feeling is--and I think it is shared by most tenants--that they wish to be removed from the fear of an

unreasonable rent increase. That is the position they are in and I think it is the position the committee and the Legislature should be helping them out of. I believe if the legislation stands, it might offer some hope to some tenants, but even those tenants will not feel very protected.

The second point I wanted to make about the legislation is that it is intended as a freeze. It is supposed to hold things as they are, until studies can be done to see what should happen a year from now. I find it interesting that even some of the landlords think the freeze is necessary to protect their interests, let alone the tenants.

I understand you will be hearing from representatives of the Urban Development Institute in support of the legislation, and you will even be hearing a presentation from O'Shanter Development Co., which is one of the worst landlords politicians in ward 6 have to deal with. We are sort of running the gauntlet of the kinds of landlords you have.

It is interesting that landlords like those would be willing to support the freeze. I suspect not many tenants will support the freeze, because it is not really a freeze. It allows too many things to float around. Given that we have a year, I think we require a freeze that really works and that will give people protection. It should be a freeze that we know will give people a feeling of security.

In my discussions with tenants, all of them are saying, "Fix an amount, make it reasonable and freeze it for a year." I think the five per cent freeze that has been suggested is a most reasonable course of action. What is interesting about the five per cent freeze, is that it really does deal with the tenants' problems.

It not only is a freeze for a temporary period, but it really does give tenants the feeling of security they need. I know you are going to be hearing a number of briefs from a number of people who will be arguing specific sections of the legislation, but I wanted to present some sort of overview so you had the sense that I have being out on the street.

Unless there is strong legislation really freezing the situation, I believe tenants will not feel protected by the legislation. I think the legislation has an obligation to try to instill a feeling of security at this point. Thank you, Mr. Chairman.

3:40 p.m.

Mr. Epp: I have one question for Mr. Sewell on his comment on equalization. I suppose, Mr. Sewell, that you support equalization in the long run.

Algerman Sewell: How do you mean "support equalization"?

Mr. Epp: The idea of equalizing of rents where there are

discrepancies between rents, yet the same kind of apartment, similar apartments and so forth.

Alderman Sewell: As long as it is true equalization, yes.

Mr. Epp: Yes.

You said the landlord would probably get the increase on other grounds. I am not quite sure what you meant by that. You said that if we do not have equalization, the landlord would probably get an increase on other grounds. Are you talking about legitimate or illegitimate grounds?

Alderman Sewell: I guess if they are approved by the Residential Tenancy Commission they are considered to be legitimate. But in the eyes of most tenants, they would not be, whatever their reasons are.

Mr. Epp: Do you mean there would be a certain padding or something of that nature?

Alderman Sewell: Yes. In some situations where there is not a strong tenant's group to take on the landlord, things can happen. That is what people are worried about.

Even in a place as political as downtown Toronto, there are still a lot of buildings that do not have strong tenant groups. It is those tenants who are worried that the landlord will be doing something.

Mr. Epp: I would just like to ask a question of one other point very quickly. It has to do with section 5 on equalization.

It was suggested to me that in clause 5(a) in the fourth line, rather than have a percentage basis in the last line where we are talking about the Residential Tenancies Act and rental units in the residential complex, that these increases be on a dollar basis.

Alderman Sewell: Yes, I think you could do that.

Mr. Epp: Are you going to comment on that?

Alderman Sewell: You could do it on a dollar basis. I understand the thinking behind it. I believe small problems like that would be solved if you said, "Maximum five per cent rent increase, period," to any unit and no questions asked.

I believe that is the only thing tenants feel will protect them. If they do not get that, we will continue to see the amount of activity we have seen in the last two months. I have never seen so much tenant activity in my whole career as a politician.

Mr. Epp: The only reason I say that is when we were talking about a percentage basis, we are talking about greater discrepancy between the different units. When we are talking about

a dollar basis, at least that same discrepancy stays there if you are talking about equalization.

Mr. Swart: I do have one question and then I will turn it over to Mr. Philip.

I do not think Mr. Sewell mentioned any concern about section 7. Are you not concerned about the section in this that means the limits would be totally removed at the end of December 1983 whether there is a report for the Thom commission or not? I presume that is of as much concern to you as it is to us. Section 7 should be removed.

Alderman Sewell: Yes, I can see that. I assume the new legislation so missed the point tenants were dealing with, that it had to be replaced. That was the assumption I was working on. Therefore, they were freezing it.

Mr. Swart: Technically, there is no--

Alderman Sewell: I might be wrong on that. Tenants need very strong protection. If the government tried to take off those protections in the next year I believe that would be the end of that government for good. The feeling out there is extremely strong and I think a lot of people are going to say: "That is it. If I am not getting protected, I have had it."

When you combine that with the attack the home owners in downtown Toronto are feeling on their assessments, there are a lot of very angry people out there. I realize the fallout sometimes comes to the municipal level and therefore it is an opportunity for us to change, but I do not feel people should be put through that insecurity.

So the sunset provision is very worrisome if this is all we are ever going to get. It is not good enough for the year. It will not calm people down very much.

Mr. Philip: Mr. Sewell, I am sure that as a lawyer you probably agree that amendments are needed to the Corporations Information Act, but since we do not have that bill in front of us, would you agree there should be a requirement of disclosure in this bill so tenants can find out who owns their buildings?

Alderman Sewell: It would be very nice. Let me tell you of one building Cadillac Fairview recently sold at 100 Wellesley Street East. I do not know if you have heard this story, but a company named Deernurst Investments--I have done the search and I have looked at the deeds for the company--was incorporated under the laws of Liberia. They now own 100 Wellesley St. East.

Who is it? Who is standing behind that company? We have no idea. If some form of disclosure was required, that would be most helpful.

Mr. Philip: Are you also aware that at least one corporation that was asked for that information by a residential

tenancy commissioner has now said they will sue the government or challenge the matter in court?

Alderman Sewell: Is that right? It must be hard being a landlord.

Mr. Philip: Do you feel that placing that in the act would at least protect tenants and the government from that kind of legal action.

Alderman Sewell: Yes. I think we should see some change there.

Mr. Chairman: The next witness at 3:45 is Robert G. Doumani, solicitor on behalf of the Urban Development Institute, Multiple Dwelling Standards Association and individuals and companies who own or manage approximately 52,000 rental units.

You could identify--

Mr. Doumani: On my right is Mr. Harold Sand and on my left is Mr. John Andrade. They have property management and rent review experience and have assisted me in preparing a brief.

I am here this afternoon to formally present a written brief, of which sufficient copies were handed to your clerk for the committee. It appears to have been passed out to you. I will touch on the key points in it with respect to Bill 198.

The chairman has kindly noted those for whom I speak, and they recognize that in the current political climate, there is little doubt the Legislature will act. Therefore, it seemed fruitless to argue about the merits or the necessity of changing rent review at this time. That should not be mistakenly read, as Alderman Sewell did, as an expression of support. Rather, it is a recognition of political realities.

The brief, in my remarks, will be confined to pointing out four serious and apparently unintended and unnecessary problems created by the bill.

The four problems are its retrospective effect; its effect on refinancings; its effect on purchases where there is no additional financing; and lastly a technical problem dealing with notices of rent increase.

The committee should not be left with the impression that these are the only problem areas. There are others, but in the circumstances we decided to focus on four major ones.

Those problems can be remedied without undermining what appears to be the government's intention.

I thought it would be useful at the outset, to consider the government's intentions from statements made by Dr. Elgie in the House on November 16 and December 2.

There appears to be little doubt that the bill was prompted

by and directed at the so-called Cadillac Fairview sales. On December 2, when the bill was introduced, Dr. Elgie said:

"Today I would like to introduce for first reading the Residential Complexes Financing Costs Restraint Act, a bill that was born out of the controversy surrounding the much-publicized sale and resale of about 11,000 rental units originally owned by the Cadillac Fairview Corp."

However, the minister was at pains to say that buying and selling residential complexes in the past was not considered improper. Thus, on November 16, he is reported to have said, "The very fact that there have been many hundreds of rental buildings sold in the years since the Residential Tenancy Act was introduced, without any suggestion that the sales be set aside or prohibited, is evidence that such sales were not objectionable in and of themselves."

Equally, investing in residential complexes was also not considered important. Again, on November 16 with respect to investment in such complexes, Dr. Elgie said, "This has been an accepted part of the investment activity in this province for years and it is not one that we should now sweep aside in our haste to protect a particular group of tenants in a specific situation."

3:50 p.m.

Instead, the apparent intent of the government, as we can glean it from the statements, was expressed this way on November 16 by the minister:

"My approach to the problems created by the Cadillac Fairview sale is based on the belief that any solution must be fair to both tenants and landlords, and that it must prevent the present market situation in Ontario from becoming a happy hunting ground for fast-buck speculators."

Against that background, the bill does the following things, as I see it.

First, it suspends the present system for recovery of financing costs related to a purchase.

Second, it replaces that system with an artificial maximum of five per cent of the last total rent roll. I suggest that this maximum bears no relation to the actual financing costs experienced by a landlord whatsoever.

Third, and most critically, it makes the new artificial maximum applicable to applications to the commission made after October 31, 1982. I would ask the committee to note particularly here that the date of application has nothing to do with the date of the purchase.

Fourth, the act defines "purchase" in the widest possible language.

Fifth, it makes the new artificial maximum applicable if the residential complex has been "purchased", as widely defined, more than once after October 31, 1979 or more than three years ago.

Briefly, here is how those changes affect all landlords, large and small, long-term or new owners.

First, there is a problem that I call "retrospectivity," which is nothing more than a fancy lawyer's term meaning "changing the rules in the middle of the game."

I can demonstrate the problem by a short example.

Suppose that you decided to purchase a residential complex in the summer of 1982, which would have been well before the Cadillac Fairview controversy arose. In deciding if you could afford the acquisition, you and your banker would consider the rules of rent review which were known and had been in operation for three years, and you would note that actual increases in financing costs arising from the purchase could be recovered in such a way that you could expect to break even in about a three-year period.

On the basis of those rules, you decide that you can afford to make the acquisition and your bank decides to finance you. You complete the purchase, say, in late August.

Under those circumstances, it is not likely that you would have filed an application for rent review prior to October 31, 1982. So suddenly, in this case, the rules of rent review on which you had relied to purchase the apartment building have been changed by the bill.

The assumptions which you and your banker had made about the time required to break even have been modified drastically. The proposed act will apply to you, and will limit the maximum amount of financing cost allowable to five per cent of the total of the last lawful rents. This percentage, as I have said, bears no relation to your actual financing costs and was not, in the example, the basis on which you decided to buy.

Moreover, the change wrought by the bill is neither based on anything that could have been known in the summer of 1982, nor on anything which you had done.

The problem is compounded for those landlords who purchased in either 1980 or 1981, and for those landlords who had then been to rent review at least once before on the basis of that purchase.

I respectfully submit that the fundamental premise on which the Legislature should operate is this. Retrospective laws are no doubt, *prima facie*, of questionable policy. They are contrary to the general principle that legislation by which the conduct of mankind is regulated ought, when introduced for the first time, to deal with future acts, and ought not to change the character of past transactions carried out upon the faith of the then existing law.

In paragraph 32 and appendix C of my brief, there is suggested a change to the bill to remedy that problem without, I think, destroying the intent of the bill.

A further problem arises with respect to the refinancing of past sales. That problem, again, is caused by making the bill applicable on the basis of a date of application for rent review and the wide language of section 3.

Again, I can illustrate that by a simple example. Suppose a landlord purchased an apartment building in September 1977, partially for cash, with the balance of the purchase price secured by a first mortgage at an interest rate of, say, eight per cent for a term of five years.

The landlord then operated the apartment building and in September 1982 the mortgage is due for renewal. The current mortgage rate then, of course, was higher, and for this example we will say that it is 15 per cent.

That refinancing and change in the mortgage rate will put the landlord in a financial loss position by reason of an increase in his mortgage financing costs. He applies to the Residential Tenancy Commission after October 31, 1982.

By the very wide language of section 3 of the proposed bill, and its application to all rent review applications made after October 31, the artificial maximum in the bill would apply to this refinancing. This refinancing involved no new purchase of a building, so that the provisions of the bill in this regard seem to go well beyond the government's stated intent.

Moreover, the application of the bill to refinancings is also retrospective, since when the landlord first financed the purchase in 1977, there was no such artificial limit on his financing cost recovery.

In this regard, I would ask you to note that while it could be said in the foregoing example that the change in financing costs results from a change in interest rates, the language of the bill as you have it is equally capable of supporting a proposition that the change is a result, to use the words of section 3, of his purchase of the residential complex which was financed by him.

Again, in paragraph 38 of the brief, there is suggested a change to the bill which I think would eliminate that result.

I would like to touch next on purchases without additional financing. Those purchases, in particular, which have occurred since October 31, 1979.

It's not unusual for some purchases to occur without additional financing being incurred. Often you will find circumstances in which someone enters into an agreement of purchase and sale for a residential complex, then organizes a corporation under which to acquire the complex and assigns it to the company.

Under the definition of "purchase" in your bill, that assignment would count as one purchase, without any additional financing costs being incurred. Again, the brief suggests a modest change which would confine its operation.

With respect to notices of rent increase, I would simply note that that's dealt with in paragraphs 45 to 57 of the brief. I note that the minister has proposed a modification in the House on December 16. In my view, that modification would exacerbate the problem described there, not remedy it.

Mr. Chairman, by way of concluding comments, let me say this to the committee. If you intend to brand as "speculators" all purchasers of residential rental property, and sweep into the grasp of the bill all past purchases of any kind whatsoever, even though such sales were not objectionable in and of themselves; if you intend to change the rules of the game in mid-stream with respect to a large number of purchases and refinancings; if you intend thereby to send a message to potential investors in Ontario about the certainty of investing in real property here, thus reducing the market value of residential rental property; and if you intend to cause mortgage lenders to react by restricting funds for purchases or refinancings or by demanding greater security--if you intend all that, then by all means adopt the bill as you have it.

However, if you agree with Dr. Elgie's statement in the House on November 16, that Ontario has always been an equitable society within which people could live and pursue their own lives, as well as a safe and profitable place for investment--if you agree with that, then I suggest to you that you would be acting equitably if you acted to eliminate the major harmful aspects of the bill which I have attempted to outline.

Mr. Philip: In your appendix, you list the people who you're representing. One company on page 2 is 495929 Ontario Ltd. Is that not the company that refused to disclose to the rent review hearing on 40 Earl Street in Toronto the beneficial owners?

Mr. Doumani: I am advised it is.

Mr. Philip: Do you feel tenants should not have the right to know who their landlords are?

Mr. Doumani: They know who their landlord is, sir.

Mr. Philip: The numbered companies?

Mr. Doumani: Yes, sir.

Mr. Philip: Therefore you would not support the amendment that we will be moving, of course, for disclosure in the act of anyone who owns five per cent or more?

Mr. Doumani: No, I would not.

Mr. Chairman: I'm sorry, Mr. Brandt. It's past four

o'clock. Mr. Brandt did want to ask a question. Thank you very much, gentlemen.

The next group is from the 41 Dundonald Tenants' Association, Howard Somerville, chairman. Would you please come forward. Do you have a written brief, sir?

Mr. Somerville: Yes, we'll circulate it to the committee.

Mr. Chairman: Fine. Let's make this exhibit 2.

Mr. Somerville: Mr. Chairman and members of the standing committee on administration of justice, my name is Somerville, as you've heard. I am the chairman of the tenants' association at 41 Dundonald Street, Toronto. We are affiliated with the Federation of Metro Tenants' Associations, but we endorse no political party or other organization of any kind, and we espouse no cause but that of tenants.

Our building is just over 12 years old, contains 102 apartment units, and has been sold and resold five times as a speculative investment since opening in 1969. Each new landlord has come in, hung around for a year or two, skimmed off his profit and departed. The result is that original tenants such as myself have paid off that initial investment over and over again. We have been a captive clientele and there are many other buildings like ours.

The last purchaser was Al-Ben-Gros Holdings Ltd., of 2885 Dufferin Street, Toronto, which added our modest building to its 20 other apartment complexes in 1979. Since then the premises have been allowed to go steadily downhill, but the rents have kept on rising just as steadily. If our exterior sealed windows aren't equal to the beauty of Westminster Abbey or Notre Dame Cathedral, they are just as heavily stained, not having been washed for the past four years.

For the first three years, the landlord also allowed the hand fire extinguishers on each of 19 floors to go uncharged annually, although the law so requires and the recent history of high-rise horrors at the Inn on the Park, the Plaza Two complex, Las Vegas and other fatalities certainly indicates the lethal potential of such neglect.

We are under no illusions about our landlord's feeling for us as tenants, but I am not here to detail the landlord's neglect of 41 Dundonald Street. Your committee hasn't got enough time before the Christmas break. I am here because, like the vast majority of the million tenants in Metro, we are suffering even more from this government's neglect.

Our people have followed the sneaky saga of the Cadillac Fairview-Greymac switcheroo and the official chatter concerning its 11,000 or 15,000 tenants. But stark as the CN Tower has been the lack of any real indication that Mr. Elgie recognizes that the rent rebellion goes far beyond Cadillac Fairview and that this government is prepared to act quickly and decisively on behalf of

the rest of us, we million tenants, less 11,000, facing the same sort of exploitation.

On the contrary, since revision of rent control with the Residential Tenancies Act, also of 1979, the purported six per cent on legal increases has been raised by Residential Tenancy Commission awards to an average of almost 12 per cent in 1980, nearly 15 per cent in 1981 and where is the average going this year and next and the year after? Some of our members are already confronted with or are already paying increases of 30 and 40 and 50 per cent.

The six per cent ceiling is a fraud. It's a cruel farce. It's political deceit.

But what do we hear from Queen's Park so far? "Go fight city hall," that ancient invitation to futility, except that city hall, Mayor Art Eggleton, and Toronto city council and Metro Chairman Paul Godfrey are with us on this issue. Mayor Eggleton has demanded the only honest and decent solutions when governments are imposing five per cent wage freezes, and that is a flat five per cent rent freeze. This would be a clear cut and courageous action, easily understood by all and self-enforcing.

For neither the mayor nor we can see why speculative investors should be inflation-proofed by tenants, any more than dabblers on the Toronto Stock Exchange or bettors at Woodbine Race Track should be guaranteed by government. Nor do we swallow the line about landlords being stuck with albatross apartments they cannot afford to own or operate, not when the original sale price for Cadillac Fairview almost tripled within days to half a billion dollars.

Landlords aren't dismayed and deterred by the cost of real estate. What they want is a licence to loot tenants at a time when the affordable housing vacancy rate is zero. It used to be known as cornering the market, as we saw a couple of years when the Hunt brothers down in Texas thought they had sewn up silver and the world was going to be jammed up against the wall and squeezed and squeezed again for that precious metal. The Organization of Petroleum Exporting Countries had similar dreams, although their cartel seems to be falling apart now.

The same kind of merciless squeeze is the real objective of Ontario landlords today. That's what they are drooling for, these corporate crocodiles with their trick tears, a cornered market on that vital necessity, shelter.

That is why landlords, too, are impatient with residential tenancy commissions, although tenants stand little chance against their hired guns, the lawyers, the chartered accountants, the tax experts and the ex-RTC commissioners themselves. I am glad to say Mr. Elgie has taken action to end that. It's not a fair contest. There is no protection for tenants. It's Bambi versus Godzilla, nevertheless.

Let me just briefly tell you about three of those Bambis. One is an elderly widow with a retarded relative to care for and

support. One is a wheelcnair-bound invalid, a workmen's compensation case fighting to stay out in the land of the living, rather than being banished and buried in some suburban warehouse. One is a spry old girl who patrolled a counter down at Eaton's or Simpsons for half a century and thought she had scraped away enough to fade away with dignity in her one-bedroom with its upright piano, the lace doilies and the china figurines. We found her one night riding up and down the elevator, distraught, with the landlord's latest rent demand clutched in her hand.

Let me caution the committee, if I may, if landlords' rapacity is permitted to rage on unchecked, you had better be prepared to provide thousands more spaces in nursing homes when these victims are eventually driven into the streets, as they will be. They are not welfare cases yet. They are trying to stay independent, but the dice are loaded against them. Their savings and pensions established even five years ago are melting away.

For many, nursing homes will be their only refuge, unless the government proposes to treat the aged and infirm as the Inuit used to do, build isolated igloos and leave the old folks alone to perish in the Arctic cold and darkness. Do you think that's ridiculous? One such died on the steps of a Toronto hospital last week, if you followed the media.

For them, there is no in between. They haven't got the money and they can't get the money to pay ever-escalating rents. Also, last week sympathizers raised \$2,000 within days for the widowed father and his baby son facing eviction. You can see where public sympathy is and the hearts of everyone went out to that poor little tyke left naked on a December night in a parking lot. She, too, has been saved. But these are exceptions. There are thousands of tenants in dire straits with little hope. Many have children. Many are among the jobless rates climbing toward two million unemployed in Canada, the richest country in the world.

While I don't wish to sound bloody-minded, these are no Bambis, but they can be goaded into becoming Godzillas. We have seen the mobilized farmers in the Bruce Peninsula and Quebec and elsewhere defying bank foreclosures on a neighbour's equipment, livestock and land. Urban Canadians have also been educated in collective action by decades in co-operatives, trade unions and other mass associations. Solidarity is not an exclusively Polish word or phenomenon. It's also in Ontario, 1982.

Tenants' anger is not all out there some place, remote, faceless, to be brushed aside, another bunch of nuts, a meaningless minority. Not, at least, according to the government House leader, Mr. Wells, who this very day is discussing the installation of plexiglass shields to protect you during debate in the Legislature, according to Saturday's Globe and Mail. That's the measure of how far "out there" really is.

I think that's all I have to say, Mr. Chairman. Thank you very much.

4:10 p.m.

Mr. Philip: As I understand the history of your building, you will not be covered by this bill at all, is that correct?

Mr. Somerville: No, we are totally outside of it.

Mr. Philip: Because even though it has been flipped five times, in how many years? Since June of 1969? Since 1969 it has been flipped five times. The people who bought the building on each occasion, of course, passed through the cost, the capital gains, to the tenants.

Mr. Somerville: No one sold it at a loss. It was always at a profit.

Mr. Philip: Even though that has happened, you will not be included at all under this bill. Is that correct?

Mr. Somerville: That is my understanding.

Mr. Swart: I would like to ask one supplementary question to that. On all occasions has what has been passed through been the 85 per cent of the value, do you know?

Mr. Somerville: I am not into that, sir. We have a finance man who looks after that. I am just talking about the feelings that come to me, reported to me as chairman, from individual people. The fine print someone else looks after.

Mr. Swart: Do you know anything about the sales, whether there has been an increase in the value each time?

Mr. Somerville: We would expect so.

Mr. Swart: You cannot give any figures on that?

Mr. Somerville: I do know we had a rent committee meeting last Tuesday night and out of 18 people who attended, 11 were being overcharged or had been overcharged amounts as much as \$500, \$600, \$700 or \$900 in the past since this landlord--

Mr. Swart: Illegal rents?

Mr. Somerville: Rent roulette. Take your chances.

Mr. Spensieri: We have heard the word "flipping" being used and no doubt it has become a very dirty word. I would just like to understand from the man on the street's perspective, do you feel that five transactions, say in 15 years, qualifies as flipping? What would be your assessment of what a fair period of holding a piece of property should be?

Mr. Somerville: It all depends on the landlord, I suppose. It has been a hot property. Someone has seen it as a valuable investment. He gets in, takes whatever he can and hands it on to the next. It never changed hands at a loss, that is for certain.

It is a very modest building, no swimming pool, no sauna, no tennis courts or anything like that, but it still seems to be quite desirable to would-be investors.

Mr. Brandt: Could you give us an indication during the course of the time that you have been a resident of the building of how your rent increases would have reflected the flips that took place? What I am suggesting is, could you perhaps align it with the consumer price index or some other factor?

What was the impact on your rent through the course of those years as a result of these various transactions which we cannot get a dollar figure--

Mr. Somerville: It came in in 1976. Prior to that it had been something like 10 per cent or 15 per cent. We are up against the same problem as any apartment. You moved in June, I came in January, someone else came in July, everyone is running on a different year. To try and compare who did what and when is very difficult to ascertain.

Mr. Brandt: Would it have been an experience where your actual increases would have been above the consumer price index as an example, or the level of inflation? I am just wondering what the impact was on you.

Mr. Somerville: I am afraid I could not answer that, sir.

Mr. Elston: I have a couple of questions, Mr. Somerville. You made one reference to the maintenance about the windows for instance. Are there other serious problems with the building now?

Mr. Somerville: We had a mobile electric chair, the elevator. If it rained heavily, the basement flooded, you sat in the elevator and it was like Sing-Sing. The elevator was stopped. We were told not to use it because it was life-threatening. Fire doors hung open for a year. We complained consistently but nothing happened. Finally on the fire extinguishers we called the Toronto Fire Prevention Bureau. They were up there within two days and the landlord was told to change them and did.

Mr. Elston: So in terms of the response which you have gotten with respect to this building has come really from third-party intervention rather than from direct consultation with--

Mr. Somerville: People have actually got tiles falling out of their bathtub, shattered plaster for four or five years and nothing was done. It just sits there.

Mr. Elston: So this has not been a well-maintained apartment building, even though it has been--

Mr. Somerville: Up until 1979 possibly. A. E. LePage, the manager for the second last owner, did a creditable job. But outdoors after that, all the landscaping, the trees and the shrubs

died. It looked like the Sahara desert. The garbage had old, discarded fridges and sofas piled up, junked cars sitting in the lot--there is not enough parking as it is. We have a photographic album of all that stuff, yet the rent kept going up and up and up.

Mr. Chairman: Thank you. I am sorry, it is 4:15.

The next group is the Union of Unemployed Workers. Richard Nellis, would you come forward? Thank you.

Mr. Nellis has a brief. It is being photocopied and will be circulated as soon as it is back. That will be exhibit 3. Carry on if you would please, Mr. Nellis.

Mr. Nellis: Thank you, Mr. Chairman. Just give me a chance to switch glasses here.

I would like to begin our submission by describing what the Union of Unemployed Workers is. We are a group of people from downtown Toronto who have decided that this government is doing nothing for the unemployed and we had best help ourselves. As such, one of our objectives is to bring public attention to the needs of unemployed and underemployed men and women. As part of that objective, we felt the imperative need to address this committee on the subject at hand.

First, let me say it gives me a certain amount of pleasure and satisfaction to be addressing the committee on this issue. It is the second time I have had such an opportunity. The first time was in 1976 when rent controls were first being contemplated as a solution to an increasingly difficult situation for tenants. I spoke in favour of the introduction of controls.

I remember quite clearly that landlord and developer groups appeared before the committee with a parade of facts and figures which tended to prove that Armageddon was on the immediate horizon with the advent of rent controls. Well, here we are six years later and there are no slums, as was predicted. The same low vacancy rate that existed then exists now, and there are few, if any, bankrupt landlords. The opposite seems to have taken place.

The rent review legislation that was enacted at that time enabled landlords to pass increased costs onto tenants and based on the Residential Tenancy Commission's yearly statements, this has been happening--with a vengeance, I may add. No landlord is permitted to lose money. No landlord suffers from large increases in municipal taxes. No landlord must carry enormous increases in mortgage costs. No landlord pays outrageous hikes in heating costs. All of these costs can be and are passed on to tenants by the rent review commission.

Tenants are carrying the increases in costs at a time when many tenants are not in a position financially to be able to so do. In recent times with unemployment deepening and with inflation growing, with the purchasing power of the dollar slipping, many tenants are now economically worse off than they were in 1976.

If this government, in its desire to truly bring costs under control, thereby reducing the inflationary spiral, wishes it so, we urge you to broaden the scope of this legislation that is being discussed here to:

1. Freeze allowable rental increases to a maximum of six per cent in 1983 and five per cent in 1984. That is for all tenants in the province.

2. Roll back all allowed rental increases as of October 1, 1982 to the above six per cent.

3. Amend the existing legislation to provide for severe--and I mean severe--financial punishments to any landlord who disregards that legislation.

To forestall any cries of governmental intervention in the free market, I give you the recent example of the legislated wage controls on public servants. Let the password be that Bill 198 equals Bill 179. And I have a further submission as a specific example of the particulars I have been talking about.

4:20 p.m.

Unfortunately I did not get a copy to the clerk but I am sure you gentlemen will be given a copy later. It is a specific example presented to me by the Centurion Tenant Association. They are at 433 Jarvis Street in Toronto and represent an apartment block of 135 units. They fully endorse the five per cent rent increase limit as proposed by the Federation of Metro Tenants' Associations.

In 1981 the landlord, O'Shanter Development Co., applied for and was awarded a 30 per cent rental increase. In the latter part of September 1982, just before the Cadillac issue made the headlines, O'Shanter applied for another 30 per cent rental increase.

At this time, the tenants in that building are not covered under the provisions made to protect the tenants of Cadillac Fairview from large rent increases. They missed the deadline by less than six weeks. The matter of their proposed 30 per cent increase is still under review by the Residential Tenancy Commission. Most working people and MPPs have not had a 60 per cent plus pay increase over the last two years. Neither has inflation or the interest rates soared to anywhere near 60 per cent in that time.

The federal and provincial governments have urged everyone to practise restraint. Many sectors of the economy have, with the direct result that most tenants at 433 Jarvis Street are limited to small pay increases at best. They feel a five per cent limit on rent increases is a fair and reasonable solution in support of governmental restraint programs.

Suggestions have already been made by some tenants of that building to hold a rent strike if the proposed 30 per cent increase is implemented. They assure me their situation is

serious. It is a measure of their desperation felt by their people who cannot afford to move and cannot find other suitable housing anyway, and even now, cannot easily pay the rents demanded of them. The feeling of frustration is understandable.

O'Shanter is remortgaging the building to raise additional cash, not to upgrade deficient basic services such as an inadequate supply of hot water. A little aside: the hot water temperature for the whole of the last weekend was no hotter than 26 degrees centigrade, about 80 degrees Fahrenheit. The water supply was still not repaired this morning.

O'Shanter is remortgaging the building to buy more property. The tenants want to know what your committee feels about a 30 per cent rent increase in line with the six and five program. They do not feel it is in line and they ask if it will take a change in government to open the eyes of people in power. Will it then have been too late to do something? Thank you.

Mr. Swart: Did you hear Mr. Somerville's presentation immediately prior to yours? Would you be in agreement with him that the limiting of this bill or any limit on rents to only those who did a double flip since 1979 is totally inadequate?

Mr. Nellis: It is discriminatory. It is a discriminatory bill, gentlemen. It is not only the tenants of Cadillac Fairview who have been suffering from this kind of flip-over but all tenants in the province.

Mr. Swart: Second, I presume from what you say, you would agree with what the NDP are proposing that there should be a five per cent limit period, regardless?

Mr. Nellis: Absolutely, regardless of allowing the six per cent this year. If it was five per cent, my group would be happier.

Mr. Swart: Finally I would like to hear your general comments on what you feel about the controlling inflation by wage restraint only.

Mr. Nellis: It is not something I can repeat publicly, Mr. Swart.

Mr. Chairman: Any more questions? If not, thank you very much for your presentation.

We are five minutes early. Is the next group from Bathurst-Eglinton Tenants' Association ready to go on? Kay Gardner, organizer, and Richard Fink, solicitor? Thank you. Sit down and identify yourselves to the people here.

Ms. Gardner: My name is Kay Gardner. I am an organizer of tenants in the Bathurst and Eglinton area. Mr. Chairman and members of the committee--

Mr. Chairman: This is exhibit 4 being circulated.

Ms. Gardner: For the past two years, the tenants in my neighbourhood have been under attack, the victims of landlord greed. The Ontario government has, in spite of the tenants' many pleas for help, ignored their plight and has refused them the protection they need and deserve.

In one building after another, absolutely unreasonable rent increases have been imposed on the tenants. Often the same tenants have been victimized by big increases two years in a row and, in some cases, three years in a row. These tenants have come to regard rent review as a cynical farce, and who can blame them?

In four of our buildings, the tenants have lived in fear of losing their homes for more than two years. These four buildings have been marked for demolition for 28 months. The tenants have made many appeals to their MPP, Roy McMurtry, to help save their homes, but these go unanswered.

Rent ripoffs have become a way of life in our neighbourhood. Only occasionally have we been able to win a small victory at rent review. One such modest triumph came this month when a commissioner reduced a landlord's claim of having spent \$20,000 on roof repairs to \$500. The Attorney General knows the facts of this case, and we are curious to see if he takes some action against this landlord.

Fifteen per cent rent increases are widespread in our neighbourhood, and 20 and 30 per cent increases are not uncommon. Many tenants have had rent increases amounting to \$100, \$125 and even \$150 a month.

Take this example of a 73-year-old widow who lives at 2121 Bathurst Street. Her rent was increased by \$157 a month, from \$408 to \$565. This rent review decision is now under appeal. In the meantime, she has been served with notice of another six per cent increase, amounting to \$33.90. This will raise her rent to \$598.90. The total increase for two years is \$190.90. That is a 47 per cent increase over two years, and there are no mortgage costs here. Let me assure you that such cases are not rare in this neighbourhood.

Nor, would it seem, is it rare in others. I have just had a cry for help from a widow who is paying \$437 a month for a one-bedroom apartment at Tower Hill West, 335 St. Clair Avenue West. She has been served notice of a rent increase of \$258 a month, raising her rent to \$695. Two-bedroom apartments in that building are being raised to \$1,060 a month.

Even as I was writing this brief, a woman who lives across the hall from me knocked on my door to tell me her rent has been increased by another \$28 a month for the next year, even while she awaits a rent review decision on an increase of \$101 demanded for this past year. There is no end to these horror stories.

You are aware, I am sure, that in the year ending last March the average rent increase which was given by the rent review board of Ontario was 14.7 per cent. The average for Metro Toronto must be much higher. What will the figures show this March? I am sure

it will be very shocking. How are people going to go on paying these rent increases year after year? How, especially, can seniors hope to pay them?

Fifty per cent of all the tenants in my neighbourhood are over 65 years old, according to a survey done by the city of Toronto. These elderly people are worried. They do not know which way to turn. They are worried and they are angry. They feel we have betrayed them.

I would like to use this forum, with respect, to warn Mr. Davis and his government that you are risking a major social catastrophe by your failure to put a stop to rent gouging, by your failure to create a rent control system that really does control the rents and protects tenants from speculators.

4:30 p.m.

We are approaching that stage when tenants, especially the elderly, will not be able to pay their rents. Are we going to put them out on the street? Many have already been driven into homes for the elderly before they want to move. Many are already cutting back on food.

Tenants are going to fight back. We are already conducting our first rent strike in the Bathurst-Eglinton area. One of the strikers is in her eighties. There will be more strikes and there will be more demonstrations, and all of a peaceful nature.

Bill 198 will not solve the problem, nor can we wait until a royal commission decides what should be done. Legislation should be enacted now to place a five per cent limit on all rent increases.

Why should landlords be allowed to live in a 20, 30 or 40 per cent world while the government asks us to live in a five per cent world? The campaign for a five per cent limit on all rent increases is gathering wide support. Mayor Art Eggleton endorsed this proposal on November 29 at a public meeting at Forest Hill Collegiate Institute and he said the limit should be imposed in 1983.

We do not believe tenants should have to pay a penny more towards the refinancing costs if an apartment building is sold. Is my apartment any larger or better? Of course not. Why should I pay a five per cent increase just because I have a new landlord? Is one numbered company any better than another numbered company?

Bill 198 should also be amended to prevent demolition of sound apartment buildings until the housing crisis is resolved. The city of Toronto asked the provincial government for that power as long ago as October 1981 and still awaits a decision.

This request arose out of our fight to save 790, 800 and 840 Eglinton Avenue West and 2525 Bathurst Street from demolition. In peril are 168 apartment units, sufficient housing for more than 300 people.

We have been appealing to the government of Ontario through our MPP, Mr. Roy McMurtry, to save these buildings since August 1980. We have made appeal after appeal, and nothing happens. The tenants are left to live in uncertainty. It is unfair and it is even callous to treat the tenants in this way.

Even as we are meeting here, the wreckers are finishing the demolition of an apartment building at 118 Eglinton Avenue West. We also sought Mr. McMurtry's help in saving this building. It is ironic to note that one of the tenants, an old age pensioner, was given a 100 per cent rent increase, approved by rent review, at about the same time as he got his eviction notice.

Tenants need your help, and the full protection of the government. We appeal to you to support a five per cent limit on rent increases now and legislation to prevent demolition of affordable rental housing.

Mr. Philip: Kay--and maybe Richard Fink might comment on this--the last part of your brief deals with the need for demolition controls. Do you see any way in which this bill could be amended to put in what Bill P13 was trying to do? That bill was never dealt with adequately by this committee.

Mr. Fink: The bill could be amended to add Ms. Fink's bill for demolition controls. That would be a friendly amendment as far as this side of the table goes. I am not certain about the other side.

Mr. Philip: Since you can only amend those sections of an act that are being amended by the government's bill, where would you put in such an amendment? Have you examined that?

Mr. Fink: I have not examined that, but one would feel that if the rent review were to remain, you would have to protect the existing stock. If the existing stock is allowed to fall, then there will be no rent controls on the new stock arriving. So, although it would take some stretching, it would be possible to make that amendment.

Mr. Philip: Since the minister has a study under way on the problems involved in the Landlord and Tenant Act and the Residential Tenancies Act, wouldn't the easiest way of dealing with the demolition problem be a quick five per cent freeze, with the government promising to bring in Bill P13, which is a separate act?

Ms. Gardner: That would seem reasonable.

Mr. Philip: That would be acceptable to you?

Ms. Gardner: I think so.

The Acting Chairman (Mr. Brandt): I think Mr. Epp was the next speaker. I am taking over for the chairman, and I did not have an opportunity to recognize any earlier hand. So Mr. Epp is next.

Mr. Epp: Thank you, Mr. Chairman. Last Thursday, I indicated that we would be bringing in amendments to incorporate Pr13 into this bill, if possible. I am not sure whether it is going to be ruled out of order. Nevertheless, we have our amendments ready to be placed on the record tonight, so we hope we are going to be able to incorporate those amendments in that bill. We shall try our best.

Ms. Gardner: We, the tenants of Bathurst and Eglinton, much appreciate that. Our slogan for the past few years has been, "Apartments are homes too," because we were not sure we would have a place to live for a while. They have buildings sold every year.

Mr. Fink: I wonder if I might address the committee for a few minutes, if we are not out of time yet. I think we still have three or four minutes, or whatever.

I should like to talk to you about one particular building, 1731 Victoria Park Avenue. I notice the landlord's agent, Mr. Sand, is here in the audience today.

The building represents the abuses of the residential tenancy system as it now exists. The way that building is being dealt with by the commission supports the thesis I have been making that the commission must be abolished and a six per cent ceiling should be in place.

I do not say that lightly, because half of my practice now is before the Residential Tenancy Commission. I can assure you that I am being paid for my time twice what I am being paid by the Ontario legal aid plan. Nevertheless it is more important for the clients I represent that this commission be abolished.

There are two reasons why this building illustrates my thesis. The first is, as the members are aware, that there was a change from three years to five years. Under the old system's guidelines, losses could be amortized over three years. That has been changed for all hearings since November 16, I believe, to five years.

The question is, when is three years five years? Three years is five years for the Residential Tenancy Commission, and let me explain to you why.

At number 1731, the building was bought in June or July 1981. The commissioner therefore stated that the tenants, in their current rent increase, beginning in approximately October 1982 and stretching over the following year as different units come into line, should pick up 22 months out of 60, or in other words a third of the financial loss of the landlord.

So rather than spreading it over three years, he felt it should be spread over five years. The reasoning there is that the final rent increase will not come into effect until 22 months after the purchase. Therefore, these 22 months, being the time when the rent increase comes into effect over five years of months, which is 60, comes up with a third. That means the tenants will be paying for this loss in three years.

The guidelines themselves say the loss should be picked up over a period of five years. It does not delineate whether that should be over a period of five years since the purchase, or over a period of five years of applications. However, this particular commissioner has decided that it should be five years since the purchase and that the number of months should be counted until the final rent increase comes into effect.

The effect of this is that these particular tenants are facing 25 per cent rent increases. They are not covered by the five-year cap.

This is an obvious situation of the commission bending over backwards to help the landlords and not the tenants, and it happens all the time.

I was very surprised. This application was one of the first I had seen from a consultant from these landlords who did not ask for carpeting. The consultants almost always ask for carpeting. The reason is that carpeting automatically allows three per cent added to rents. Every building can stand carpeting. Even if the carpeting is only one or two years old, the landlords are free to say they want to put in new carpeting. Carpeting has never been rejected by the commission, to my knowledge.

4:40 p.m.

So even under the new system, you have an automatic increase of 14 per cent without blinking an eye; six per cent for operating; five per cent for the maximum of the financing; and three per cent for carpeting. You can use your imagination after that.

At 1731 the tenants there do their own repairs. The landlord's own figures show he only spent approximately \$7,000 on 126 units over the course of one year. If you figure that out per unit, it wouldn't even paint one wall in one unit. It is practically nil. The landlord paid absolutely nothing for painting in one year and then had the audacity to say he was increasing that to \$1,000 next year.

There are tenants who are facing large rent increases to pay the landlord's refinancing. This is the second point I wish to make. The refinancing in this particular building was a shareholders' loan. The landlord, which is a company, paid \$2 million for the property. Of that, \$1.4 million was the mortgage back to the vendor; \$300,000 was cash; and \$300,000 came from the only two shareholders in the company. So what the landlord was seeking was that the shareholders who loaned the company money should have the interest paid by the tenants for this shareholders' loan.

It's not a case of a phoney mortgage, it's a case of a creative mortgage. It is created to assist the landlord in rent review. The mortgage wasn't a mortgage, it was a nonsecured debenture. It's not even registered with the PPSA, but it still sits there--I was shocked that the commissioner, rather than listening to an hour of argument and having to go through facts as

to who the shareholders are and their relations, etc., did not throw this piece of financing out as soon as its exact nature became apparent. I was shocked and amazed.

I saw one commissioner do that, so I can't say all the commissioners show this type of attitude, but the fact that some do is enough for me to say to my clients--even if I personally have to suffer financially--that we cannot trust people's rents, which are people's lives as Kay has pointed out, with this commission. Thank you.

The Acting Chairman: Thank you, Mr. Fink. The time has expired on this presentation. Mr. Swart, did you--

Mr. Swart: I thought this went to a quarter to, Mr. Chairman.

The Acting Chairman: I came in a little late, but I received information that it started at 4:25 p.m. If that's correct, I have actually allowed him to go a few minutes over. I didn't have your name on the list, so in recognition of that, how about if I put you at the top of the list for the next group?

Mr. Swart: Well, I'm not sure.

The Acting Chairman: It may not be the same question, but sometimes the questions have a certain element of--

Mr. Swart: If you were running two or three minutes ahead perhaps you would permit--

The Acting Chairman: We're not running that much ahead. Let's make it a snort question--

Mr. Fink: I'll give a snort answer.

The Acting Chairman: --then in deference to the co-operative spirit we have here today. Mr. Swart, a quick question and a brief answer, please.

Mr. Swart: What percentage of the apartments where you represent the tenants, will this bill help, even in a minimal way?

Mr. Fink: It will be of assistance to probably 75 per cent of the tenants I represent, in that it will lower the rent increase they would otherwise receive; 25 per cent will be unassisted.

Mr. Swart: You talked about a demolition problem. Is this used as sort of a blackmail in raising rents?

Mr. Fink: There are three buildings that are presently under threat of demolition. The solicitor for the landlord told us at the rent review hearing in 1978 that if he did not receive his increase he would demolish the building. I laughed at him. I don't listen to landlords' threats, but that one came true.

Mr. Swart: They do use it as blackmail.

The Acting Chairman: Thank you very much for your presentation. The next group we have is from City Park Tenants' Association. Michael Engelberg, I believe, is the solicitor acting on behalf of that group and will make the presentation.

Mr. Chairman: I would just advise the members of the committee that we do not have a written submission from Mr. Engelberg. Whenever you are ready, sir, you can proceed.

Mr. Engelberg: Mr. Minister, Mr. Chairman and members of the committee, I want to speak very briefly--and this is why I have not brought copies of all the documents with me--about the nature of the transactions that can be entered into by landlords and by vendors of buildings with which the legislation must be concerned.

I represent the City Park Tenants' Association, which is a complex of three buildings on Church and Alexander Streets, approximately 770 apartments with over 1,100 residents.

They are in the position of having had their buildings sold in June of this year, before this proposed legislation purports to affect transactions. Their buildings had been owned for many years by a Swiss corporation. A sale took place on June 11, 1982, to a numbered company.

Again, we have the situation similar to the Cadillac Fairview transaction, where a solicitor is the incorporator and only director of the numbered company, so that we do not know who the beneficial owners of the building are.

I believe that the sale took place for some \$21 million. The exact amount is not relevant. It covered not only the three apartment buildings downtown on Church and Alexander Streets but also another building on Christie Street.

To show you the sort of problem we are faced with, which I believe the present guidelines, the Residential Tenancies Act and even the proposed act are not equipped to deal with, the three buildings downtown were immediately leased on the same day, the next instrument number at the registry office, for \$7 million each, with a parking lot for \$2,245,000. There is a total right there of \$23,245,000, which already represented a profit.

The problem that we are faced with is that the tenants do not know whether the allocation of the price for the leases was proper. We do not know how much to attribute to each of the three buildings downtown. We do not know how much to attribute to the parking lot and we do not know how much is attributed to the building on Christie Street.

It looks very quickly as if there was a turnover of approximately millions of dollars in profit, depending on the value of the Christie Street building. The Christie Street building was, I believe, sold directly to Greymac Corp. The three buildings downtown that I have spoken of were leased for 20 years, 11 months and 29 days. In that way, the jurisdiction of the planning act is avoided. They were leased for \$7 million each for that period of time.

There are numerous clauses in the leases, and I do not think that it is necessary to go into them now. One of the buildings, at 31 Alexander Street, was leased to Seaway Real Property Co. Ltd., Seaway Mortgage Corp., Seaway Trust Co., Greymac Trust Co. and Greymac Mortgage Corp.

The building at 484 Church Street was leased to four different Greymac companies. The building at 51 Alexander Street was leased to four different Seaway companies. The buildings that were leased to four Seaway companies were mortgaged to a Greymac company and the building that was leased to the Greymac company was mortgaged to Seaway.

We have a very interesting transaction here. It is certainly clear that all of it is part and parcel of one design. It is very difficult for the tenants, under the present legislation, to figure out the true meaning of these. I believe, from my experience on the Residential Tenancy Commission, that the truth will not necessarily come out there either.

There is one thing, and one thing only apparently, that protects the people I represent under the new legislation. This is the fact that when the buildings were leased by the numbered company to the various Seaway and Greymac companies for \$7 million, for one day short of 21 years, the leases provided that at any time during that period, the Greymac and Seaway companies--whichever one happened to be the lessee of that respective building--could buy the building for \$1.

4:50 p.m.

I query whether that is another sale, whether it is really a mortgage, or what the nature of that transaction really is. I believe, in conversations with the people in the Ontario government, that the people I represent may be protected under subclause 2(b)(ii) of the proposed bill. Even though the application for review by the landlord was made before October 31, 1982, the people I represent appear to live in buildings that have been sold more than once within the relevant period of time.

I am not certain whether that is the fact and whether this will cover the people that I represent in the City Park buildings or not. Will the residential tenancy commissioner consider that two instruments registered at the land registry office on one day, being a deed and a lease, will constitute two transactions within the meaning of the proposed bill? Certainly under the definition of the word "purchase", it is proposed that it will cover not only a "transfer, assignment or otherwise", but also "an option to purchase."

I cannot be certain what decision will be taken by the commissioner, whether he will decide that a deed registered at 11:15 a.m. is one sale, and that the lease which happens to have in it an option to purchase given to the lessee, registered one minute later, will constitute another sale. I am pointing this out to you because I have some concern over the way the proposed legislation is drafted, and whether transactions like the one I am involved in will be covered.

I believe that the transaction I am speaking about is a very sophisticated transaction. It took place before the Cadillac Fairview sales in October and November. It certainly got a lot less publicity than they did because it took place in June. Also, instead of involving 10,000 units, it involved 770, which is a considerable number.

The transaction I am speaking about did not end there. Three months later, during the month of September, the leases were further assigned by the Greymac companies to a man named Timothy Howard in trust. The last time I checked the title, which was a couple of weeks ago--and by the way, this is the only way we or any tenant can find out whether things have taken place with regard to a building, to keep going to the registry office doing searches and seeing what you can turn up--they had been assigned to one Timothy Howard in trust, as I said.

Again, we don't know who Timothy Howard is holding in trust for. In fact, at the time I did the searches, I did not know who Timothy Howard was. I am now advised that Timothy Howard is a director or officer of Kilderkin Investments Ltd., which led me to believe that there was perhaps more of a connection with the Cadillac Fairview type of transaction than we had thought originally.

After the leases were assigned to Mr. Howard, he then assigned to Greymac and mortgaged to Greymac by way of sublease all his interest in those buildings for another \$8,750,000, secured by way of mortgage. Therefore, Greymac assigned the lease to Mr. Howard. Mr. Howard took it; we don't know who he holds in trust for. He then mortgaged it back to Greymac.

The difficulty that a residential tenancy commissioner is faced with is how he can ascertain the true nature of the transaction. If the tenants are to be adequately represented at the hearing, now can they find out what took place other than by accepting somebody's word for it?

Similarly, each time one of these transactions takes place, a different number of millions of dollars is used as a figure. The tenants are faced with the problem of determining how much of it represents the sale in the value of the building, how much of it represents value as a mortgage, and how much of it represents value as a lease.

All those considerations must be considered by the commissioner. I don't know of any effective means at his disposal at this point that will enable him to do that. Certainly, the onus cannot be on tenants to go out and retain property evaluators to try to determine how much each of these buildings is worth and how much a lease for 21 years is worth when it contains in it the right to buy the building for \$1 at any time.

In addition, when the matter does come up for the hearing in January or February 1983, or whenever it may come up, it will involve only the three buildings downtown. What means do the tenants or the commissioner have to determine what value to apportion to the building on Christie Street in order to determine what exchange of property and money took place?

I realize that this submission may sound particular in that it deals with the three buildings and the clients I represent. That's why I'm here today, to speak on their behalf, and not on behalf of anyone for the general problems faced by either the present or proposed legislation.

I believe that a look at this transaction will point out to you, the committee members, many of the problems that can come up in other rent review hearings. When you have a sophisticated transaction like this where there are options to purchase; mortgages; mortgages of leases; mortgages of realty; assignments of leases, and people holding in trust for unnamed people, there is a lot of work to do, and a lot of expectation put upon the residential tenancy commissioner.

Frankly, I don't see how he can discharge that onus being placed on him under the proposed legislation. I also don't know how anyone acting on behalf of residents and tenants of buildings can find out the truth for himself or for them so that he can make adequate submissions to the commissioner for the commissioner's consideration.

Similarly, I'm concerned with the wording of the legislation so that they don't want anybody to be able to argue on behalf of the landlord. When several transactions take place in one day, it is not by way of deed but by way of lease or mortgage, which may not really be a lease or mortgage, that such a transaction may not be covered.

My clients appear to have been lucky because of the fact that, in their particular assignment of lease, there happens to be an option to purchase the building for \$1. Therefore, I believe that their transaction comes within the proposed legislation. However, I would submit that the test of whether another sale has taken place should not necessarily be whether or not there is an option-to-purchase clause in one of the instruments that has been registered on title.

Mr. Spensieri: You may have been here before when we heard Mr. Doumani, the previous solicitor, who made submissions that sometimes a mere assignment of an offer to a numbered company may constitute a purchase. He seemed to be very worried about the consequences of those kinds of unintended labelling of a purchase.

You point out, on the other hand, the exact converse of the problem. Many transactions which are not couched in the form of a purchase are, in fact, purchases, such as your assignment of lease situation. There are various other commercial documents we can think of, such as the classical man of straw and the mortgagee being in fact the real owner, that sort of Oklahoma situation.

It seems that we should really be looking very carefully at this definition of "purchases." All of us who have had commercial practice know that purchases can be conducted in very many ways other than through the traditional purchase document, such as a deed.

5 p.m.

Perhaps you could just point out to us whether you have seen any other type of arrangements besides those two, the lease transaction which you described so well in your case and the large mortgage transactions of the straw man type of ownership. Are there any other things that we should be looking for as we're dealing with this legislation?

Mr. Engelberg: I am perhaps the wrong person to ask in that I am a litigation lawyer, not a corporate commercial lawyer. They are the ones who are very skilled at drafting agreements and instruments which may be perfectly legitimate from the standpoint of tax planning purposes, but which may in effect have different purposes or different effects when it comes to rent review. Other than putting certain clauses in assignments, leases, or mortgages, no different instruments come to mind.

I think that people and lawyers, in setting up these transactions, can be as creative as possible. I was involved in a rent review hearing earlier this year where corporations, in which parents and children were involved, transferred apartment buildings to corporations in which the same parents and children were involved. The question was whether any sale had really taken place.

In that case, it was obvious to me that the transaction had been set up that way for tax planning purposes by a wealthy family, and that avoiding rent review or passing along bigger increases was not what either the parents or the children had in mind.

Mr. Chairman: I must stop you in fairness to everybody else. Thank you. I hope you answered enough of Mr. Spensieri's question.

Mr. Spensieri: I have just a very simple supplementary, Mr. Chairman.

Mr. Chairman: Not really, I'm sorry. There are other people I'm cutting off. Mr. Swart, no. I'm sorry, we're already a minute over for the next group.

We have the Federation of Ottawa-Carleton Tenants' Associations. Tom Trottier is the president. Do you have a written brief, Mr. Trottier?

Mr. Trottier: Yes, we do.

Mr. Chairman: You already have numerous copies?

Mr. Trottier: Yes.

Mr. Chairman: Thank you. The clerk will distribute them. That will be exhibit 5. Be seated, please. Do you want to sit at a microphone, please?

Mr. Philip: Can you inform us? What was our understanding about the O'Shanter Development Company? Are they being rescheduled?

Mr. Chairman: No, they're at 5:15 p.m.

Mr. Philip: He's there right now.

Mr. Chairman: It's five o'clock. Carry on, please, Mr. Trottier.

Mr. Trottier: My name is Tom Trottier. I am the chairperson of the Federation of Ottawa-Carleton Tenants' Associations. This is an umbrella group in the Ottawa-Carleton regional municipality. We consist of nine associations with about 4,400 units as members. I represent about 12,000 tenants.

We formed earlier this year, largely as a result of our associations having to go to rent review. The situation in Ottawa was that two years ago the vacancy rate was 3.7 per cent. Now it's the lowest in the country at 0.2 per cent.

Ottawa, as you can appreciate, is a government town. Most of the employees, if they're not covered by the six and five per cent guidelines of the federal government, are among a substantial number of municipal and provincial employees covered by the five per cent of the provincial government.

We are also quite hard hit by rent increases. The last statistics from the Residential Tenancy Commission indicated that the average increase in Ottawa-Carleton was about 16 per cent, which is about two per cent over the provincial average. I'm sure you can appreciate the difference between 16 per cent and five per cent. We're very much in favour of a five per cent limit on all rent. It seems to me that if you want to control inflation, you have to control prices.

It seems to me that there is now machinery in place that can do that. It's easy to apply. I agree that it will cause hardship to some landlords over the next year, or however long the provincial restraint legislation applies, but that's what should be done.

With that as a preface, I would like to get on to the bill. We would like to say, "Thank you, Dr. Elgie," because we do think that limiting these increases due to new purchases to a five per cent increase on rent is a step forward. It protects tenants and will prevent landlords from taking the example of Cadillac Fairview in this instance. It seems to me that, instead of October 31, it should be applied to all future decisions of the Residential Tenancy Commission.

It seems to me that this is something that can be done. I don't see that it involves a lot of change. It will involve hardship to landlords. We are undergoing a lot of hardship ourselves here. It's not alone for tenants to have to bear the 16 per cent increases while other people get off scot-free.

Regarding the Cadillac Fairview thing, Cadillac Fairview also sold two buildings to Urbandale Realty Corp. Ltd. in Ottawa. These are the Watergate and the Seignior on Wortemburg Road. They also applied for rent review, but before the October 31 deadline.

They were originally facing increases of something like 30 and 40 per cent. The landlord has since reduced this to an average of about 20 per cent. Even so, these are due largely to the new financing. In fact, even with the 20 per cent, the rents will very often go above the \$750 limit that now exists. That's how rent review is actually going to self-destruct over the next few years unless this limit is changed. Especially here in Toronto, how many people can rent a home for under \$750, unless it is a bachelor apartment?

Another development, Southvale, is owned by--and I would correct my submission here--two numbered companies and managed by Kilderkin Investments Ltd. It was sold early last year, in 1982. Again, these people are being asked to pay increases of 20, 30 or 40 per cent and more. These are two things that are connected to Cadillac Fairview.

There are other cases in Ottawa where people are again facing extremely high increases. There are several buildings on Prince of Wales where increases are 40, 50 or 60 per cent. This is two years in a row they've been that high.

Our attitude to this bill is that it's a Band-Aid. It's a useful Band-Aid. It's good to have a tourniquet on an arm that has been chopped off. I would suggest that it should be applied more equally, more evenly. It can be reasonably applied to all future decisions of the Residential Tenancy Commission and not just to benefit an extreme example which took place in Toronto not so long ago. This is a flagrant example, but there are tenants hurting all over, especially in Ottawa.

I also have some comments about equalization. This thing has not come up before. We in Ottawa are generally in favour of equalization, but what happens is that when equalization gets applied, a lot of people who have been long-time tenants or who came in at a time of a high vacancy rate get hit with extremely high increases.

The average increase in the apartments where I live was approximately 13 per cent granted by the commission, but increases ranged upwards to nearly 40 per cent. Equalization does hit some people extremely hard. We have a proposal here in the brief of a way to change that, to cut down the effect of equalization, but to allow that eventually. I will leave that for you to examine. It's fairly detailed.

I believe that the previous representative of some landlords suggested that it's not a good idea to change horses in midstream. It's not a good idea to go backwards, to have retroactive legislation. I suggest that it's certainly worth while to change horses in midstream if the horse is drowning and there is a lifeboat available.

5:10 p.m.

I would also suggest that what is really needed is a bridge over the stream. We need more housing and more availability. I would like to see rent review disappear in 10 years. To be able to do that, we need more housing. This is beyond the purview of this committee, but that is the final solution. It's going to take a lot more government input of money instead of tightening the purse strings as is presently happening.

To summarize, I would suggest that we welcome this bill. It should be made applicable to all future decisions of the Residential Tenancy Commission and not just to those since October 31. I don't think tenants in Ottawa and Sudbury and places all over the province should be ignored while people in Toronto gain the main benefits.

Regarding equalization, I think there needs to be a recognition of existing tenants and that the impact of high increases of equalization on existing tenants should be ameliorated. It's of value to have a stable rental community, to have people who are not forced out by 50 per cent increases and have to move. In my brief we have an example of a way to do that.

Mr. Epp: Very quickly, based on your earlier comments, I gather you would be in support of a five per cent freeze on wages and so forth; a total five per cent freeze.

Mr. Trottier: Yes, I would.

Mr. Epp: Okay. Second, in speaking about equalization, a suggestion has come forward that the equalization not be based on percentage, but on a dollar value. Have you given any thought to that, Mr. Trottier?

Mr. Trottier: Yes, we have. It gets a little messy when you talk about rental complexes where you might have a one-bedroom in the basement and a five-bedroom penthouse on the roof. You would have to look at the individual types of units to be able to see what the dollar increase would be.

We suggest that it be within types of units and that the variation, the maximum dollar increase, be only 1.25 times the average increase within type of unit.

Mr. Epp: Yes, you understand the problem with percentage, because the differential becomes greater for another year when you're, in a sense, freezing that in.

Mr. Trottier: Yes, that's true. That's why we are generally in favour of equalization. A lot of people are paying very high rents and then they have the biggest increase. On the other hand, people are paying low rents, especially if they are seniors or their rents are controlled or they're on welfare; things get very tough.

Mr. Epp: Third, very quickly, you were talking about the

0.2 per cent vacancy rate in Ottawa-Carleton and area. Are any buildings being built there?

You said two or three years ago there was a 3.5 per cent vacancy rate. Now you're saying there is a 0.2 per cent rate. It has decreased all over the province. It seems to have become more acute in Ottawa-Carleton. Are any new buildings being built?

Mr. Trottier: There are now. There is a development going up that is partially rental in Nepean, which is just on the border of Ottawa. That should add 400 or 500 units to the Ottawa area. In Ottawa, we have the second greatest percentage of renters in the province. Less so than Toronto, but more so than almost any place else. That's a fairly small amount.

There are buildings going up and there are new developments. That's the sort of thing we need in the long term, but if you, for example, took off rent review, people would be faced with extremely high increases in the immediate short run. We might get more buildings later, but in the meantime, people will have to put in billions of dollars more.

Mr. Swart: I am interested in your comments on leasing, leaseback and leasebuying. You heard the submission by Mr. Engelberg. You have had some experience with that there. Has the commission allowed these as pass-throughs in almost the same sort of sense as if they were a new purchase?

Mr. Trottier: I haven't had much experience with that. I have handled a few rent reviews, not a lot. We haven't had anything quite like that come up. It's been fairly clear in all of the cases that I have been experienced with. That's only four or five different cases.

Mr. Philip: Stick around for the next witness.

Mr. Trottier: I would like to say that it seems to me that the guidelines are fairly equitable to landlord and tenants. One of the big problems we have in Ottawa and in other places is that the commissioners seem to bend over backwards to favour the landlords and we do not get the benefit of the guidelines. We did not get it at the hearings that I handled for our complex.

Other people have had the same problem. They are not following the guidelines. It is a big problem and that is why we appealed and why we may be going even further.

Mr. Chairman: Thank you very much.

It is 5:15 p.m. The next group is from O'Shanter Development Co., William Krehm. The audience cannot take part in the committee proceedings, I am sorry.

Mr. Krehm: Before starting on my brief, I wish to correct a statement made by Alderman Sewell. We do not support Bill 198. The representative of the Urban Development Institute already made it clear that his organization also does not support Bill 198, although Alderman Sewell reported that it did.

Having established Alderman Sewell's way with facts, it makes it unnecessary for me to proceed to answer Alderman Sewell's slur on O'Shanter Development as one of the worst landlords in his ward, especially since I can understand the peeve of Alderman Sewell.

The power base he established at two of our buildings, 100 Gloucester Street and 105 Isabella Street, and ruthlessly exploited for his political ends, has crumbled. At the last hearings of 105 Isabella and 100 Gloucester, members of the executive of the tenants' organization dissociated themselves from the few remaining militants who insist on using the building department of the city of Toronto for the alderman's political ends. With that, I will proceed to my brief.

There was little in the Cadillac-Greymac-Saudi transactions that was not foreseen years ago and warned against. Before a legislative committee in 1978, Michael Walker of the Fraser Institute had the following to say, and please ponder this:

"If you have buildings in a market that is rent controlled and the landlords who are there now are generally law-abiding people and you have another individual who does not mind engaging in activities which are close to being extra-legal, the rate of return from investing in that building for the guy who is willing to undertake illegal activities is quite a bit higher than it is for the guy who is law-abiding, and there is quite an attraction for that kind of individual to come into the rental market. The value of buildings is depressed by rent controls and so it is an easy buy in." That is your clue to the Cadillac Fairview situation.

I must make it clear that I am not casting aspersions on the purchasers of the Cadillac buildings, about whom I know nothing. What I do know is that this government helped drive out of the rental housing field a highly-reputable concern like Cadillac Fairview. That is just the tip of the iceberg. I could name a dozen other major developers who have left or are looking to abandon the industry. That is your real problem.

When Cadillac Fairview first offered their business for sale I thought that surely the government of this province would find its conscience and be appalled by what it had wrought in the seven years of rent review. I spent a whole morning with Mr. Williams and his senior staff outlining some of the abuses in the commission's procedures that were completing the destruction of our industry. If you are not allowed to survive holding your buildings, naturally you sell them in order to avoid bankruptcy.

For example, simple things like waiting for as much as a year and more for confirmed decisions--Mr. Williams knows what I am talking about; 22 Alcorn Avenue. During that time, you are making payments on your new mortgages and collecting only six per cent on your rents. Tenants are running up arrears of hundreds and even thousands of dollars and are free to decamp, leaving the landlord holding the bag, all because Bill Davis is on a belated economy kick and has refused to fund the commission adequately.

5:20 p.m.

These bad debts which the landlord, and eventually the tenants, must pay amount to many times the figure Mr. Davis saves. An easy solution would simply be to raise the six per cent increase allowed without application to the Residential Tenancy Commission to say, eight per cent, still well below the inflation rate and many landlords would stay away from RTC in droves.

Instead of seeing that the horse got its minimum rations of oats and hay, Mr. Davis decided to nail up the door of the stable. He decided to make apartment buildings unsaleable so the problem would go away. You have the results of this coming before you in Bill 198.

That is a neat little trick except for one detail. You spread the losses of new owners over five years and put a five per cent ceiling in the pass-through of financing costs, but any mortgage lender sees himself as a potential new owner and a mighty cautious one at that. If his mortgage gets into default he must reckon with foreclosing it and taking over the building.

This latest antic of our government has frightened the bejesus out of lending institutions. It has raised the risks in lending on apartment buildings to dizzy heights and demoralized the mortgage markets.

I know what I am talking about. I have been negotiating for new mortgages to replace old ones. Lenders are asking for letters of credit to support the real estate security which has shrivelled, and because of the delays in RTC procedures in handing down rent decisions, the higher interest rates that have resulted will cost tenants--to hell with landlords--millions of dollars over the years.

Property values have plummeted to such an extent that for no more money than he put into Suncor Mr. Davis could have picked up a commanding position in the apartment business of Metro Toronto and lived happily ever after with satisfied tenants. But of course, he won't. He knows more about the real costs of running apartment buildings than he cares to admit.

In my 1978 brief I quoted figures showing that the operating loss of Ontario Housing Corp. per unit in 1977 exceeded the total average rent approved by rent review. That is apart from the cost to Canada Mortgage and Housing Corp. of those low subsidized mortgages.

To save time, yours and mine, I am attaching to this brief copies of the Hansard report of my brief to legislative committees on rent review in 1977 and 1978, along with a chapter of a book of mine that analyses the Ontario rent review procedures as a classic example of what has driven our economy to the brink of disaster. I limit myself to a few basic points.

The whole concept of phasing in or spreading losses is incompatible with a pass-through principle on which rent controls have operated for over seven years. The underlying assumption has been that all landlords were earning a profit as of day one in 1975 and that it was therefore enough to pass-through the cost

increases to preserve that rate of profit in dollars unadjusted to inflation.

A couple of years later we started hearing that if a landlord suffered a loss after a new purchase, that loss had to be spread over three or even five years. After all, it was a normal thing for developers to sustain losses in new projects and get to a break-even point only after three or four years.

You might have thought the philosophers of rent review would go on to ask what then was happening to those landlords who had acquired or created projects during the two or three years before rent review came in. Instead of gouging, as all landlords were supposed to be doing in 1975, they would, by the board's own reasoning, be suffering losses. They are frozen in their losses by the rent review process and eventually driven to sell their buildings.

A further point: Developers were content to suffer losses during the first years of a project because they hoped to recoup and better further down the line. The RTC adopts and enforces the first half of this pattern but forgets about the second. For an investment in a new project, including the new ones of 1975, you have a game of Russian roulette. The best you can hope for is not to blow out your brains during the coming round.

Let's examine this device of spreading losses further. The guidelines recognize only mortgaging costs up to 85 per cent of the landlord's purchase price. On the 15 per cent minimum equity required, the landlord is never supposed to earn a return, even in theory and in unadjusted 1975 dollars.

When asked to explain, the philosophers of rent review say that the landlord's reward would come in the form of the increased value of his building. Bank managers, however, seem to have a stubborn preference for repayment of their loans in the coin of the realm.

But not to worry, Mr. Goetz-Gadon of the tenants' association even wrote a letter to the Globe and Mail in which he explained to landlords how they could realize their reward by selling their buildings. Undoubtedly, Cadillac Fairview read that letter and decided to get the hell out of the field.

Those losses, those of 1975 as well as those up to today, do not vanish. They must be carried forward year to year and financed. They represent a growing hold in the landlords' balance sheet. They are never recovered except through sale. They are not even recognized as an increased equity to be reflected in the 85 per cent of mortgage financing, recognized as an expense by the Residential Tenancy Commission.

Financing those growing deficits uses up more of that famous money supply that the Bank of Canada monitors so obsessively, and drives up interest rates, so that not only landlords, but the entire economy must pay.

We hear a great deal about the fight against inflation, but

inflation results whenever we ignore real costs and consume more than is being produced. From its beginnings, rent review has been an exercise in sweeping other peoples' costs under the carpet. Its effects have therefore been strongly inflationary, and the regrettable increases in rents today constitute a largely catch-up process, primarily reflecting what has happened to interest rates. The words "interest rates" have scarcely been mentioned by previous speakers.

There are needy tenants, of course there are, estimated at perhaps 20 to 30 per cent of the total number of tenants. Three government reports provided the answer to that, and three government reports, commissioned and paid for with taxpayers' money, were assiduously ignored.

Aid should be pinpointed to needy tenants in the form of government rental subsidies. Instead, our government has organized a grand potlatch of the entire rental housing stock. Many of the tenants who are perfectly capable of paying the full shot of their shelter are being carried by landlords. They were able to put out the windfall that rent review gave them on the money market, at the usurious rates that landlords and other borrowers have been staggering under.

Repeatedly, we proposed to our government that we be allowed to reduce the rents of needy tenants below rent review decisions, provided that we could recoup that reduction dollar for dollar by tacking it on to the rents of affluent tenants based on income tax returns. Of course, we didn't get to first base.

There is another aspect of this question that calls for your attention, particularly since you have the title of standing committee on administration of justice. While the government is bringing in Bill 198 through the front door, it has sneaked in some highly dubious innovations as revised guidelines by the back door.

I would commend these to your attention, because they illustrate the way in which the rent review process has worked from its inception. There are the bills that come before the Legislature, but there are also the administrative guidelines that won't bear too much scrutiny or daylight, and that call to mind the dirty-trick department of President Nixon's plumbers.

Of course, the guidelines are supposed to be discretionary, and since I brought to Minister Grossman's attention the Supreme Court's ruling in the Minto case, our government has been given to protesting the discretionary nature of these guidelines rather too much.

For practical purposes, commissioners accept them as mandatory. In my own experience at hundreds of rent review and commission hearings, I have not experienced a single instance where a commissioner chose to depart from the guidelines, even on such flagrant matters as not allowing interest on unamortized capital repairs, which has since been abandoned as the guideline by the government itself.

Under the date of November 16, 1982, Mr. Williams, chief tenancy commissioner, amended the guidelines in the following senses: Losses on new sales can be passed on over a period of up to five years, instead of three. Interest on any accumulated losses, suffered as a result of spreading of the pass-through of the financial loss, is not to be allowed. Interest on allowed capital expenditures is to be allowed at a rate deemed by the commission to be a reasonable average rate that may be anticipated over the life of the capital improvement.

5:30 p.m.

I need only remark that capital improvements and replacements are amortized over a period as much as 30 years. The commissioner is thus empowered--read "instructed"--to prophesy the course of interest rates over as much as 20 years.

You will understand why I refer to Mr. Williams' guideline mill as "the department of dirty tricks." Any landlord undertaking a substantial improvement of his building could be driven into bankruptcy by the decision of a commissioner prophesying a 10 per cent interest rate over the next 10 years.

Mr. Chairman: Excuse me, sir, I think I have to cut you off. We are a minute past.

Mr. Krehm: May I have just one more second? There are two proposals I would make--

Mr. Chairman: No, I am sorry. I would like to, but there are two members who have also asked to speak. Thank you very much.

Mr. Krehm: You have them in the brief. Thank you.

Mr. Philip: May I ask one question?

Mr. Chairman: No, Mr. Philip. If I don't let the witness finish his time--the committee has said 15 minutes and that, I'm sorry, is it.

The next group is from the Continental Towers Tenants' Association.

Mr. Philip: Mr. Krehm is the originator of the leaseback system that passes through--

Mr. Chairman: Gentlemen, sorry. The Continental Towers Tenants' Association, are they here?

They not being here, what is the committee's wish?

Mr. Brandt: I move that we extend the time for the previous speaker and get on with it.

Mr. Chairman: To let Mr. Krehm carry on? Thank you. Come back, Mr. Krehm, please.

As he is coming back to his seat, might I ask the committee

if we could take the five-minute period, say, from 6:40 to 6:45 p.m., to deal with Mr. Philip's motion, and to get a clarification as to how much or if all of tonight is to be spent in the Macdonald block?

I would like to discuss that in that five-minute period. So we will take until 5:40. Thank you. Please finish up, Mr. Krehm.

Mr. Krehm: When Frank Drea was responsible minister, I remember asking him whether the improved guidelines he was promising would be based on recognized accountancy principles and economic logic. Mr. Drea replied that, no, they would be based on "administrative logic." With that, Mr. Drea, as he so often does, brought us to the heart of the matter.

Mr. Chairman, there is no way in which you can ignore accountancy principles and run an industry by purely administrative or political logic for more than seven years. You can get away with it for a year perhaps, as long as there are reserves to devour. However, sooner or later you are going to collide with the test of accountancy.

As a result of seven and a half years of administrative logic, the pass-through principle on which the act was based has been flouted, and the Legislature itself made an ass of.

To cite only one example: for five years, interest on capital repairs was disallowed. The decisions in this respect during those five years are still built into the present rent structure, for they provide the base to which the current percentage increases are applied.

I appreciate the position of politicians, and would only ask that in return you show some understanding for the plight of our industry. I know that you are conscientious men who must at times quail over what you are called upon to do in the name of politics.

I have two simple proposals for additions to this bill that no person of good faith--tenant, politician, taxpayer--could object to.

One: that the Residential Tenancy Commission be adequately funded so that decisions are handed down within two months of application being made. This would permit us to stay in the business and not to sell our buildings.

Two: that guidelines issued by the RTC must respect recognized principles of accountancy. That would close down most of the dirty-tricks department.

Those clauses would in no way interfere with getting your political show on the road, but they would hold up the possibility of landlords holding on to their buildings without risking insolvency. They would also save the roofs over our tenants' heads from final destruction.

Have I another minute?

Mr. Chairman: Yes.

Mr. Krehm: We, the worst landlords in Mr. Sewell's riding, have drawn up plans and shepherded them through municipalities, for the creation of 170-odd units by the process of "infill," taking the ground-floor space used for storage and creating a new apartment.

It has been passed in North York; we have had a revision from the Toronto committee of adjustment. There was a program of the Ontario government for this sort of thing. I understand that it has been suspended because of the cutting of funds.

I hear we have unemployment in the province, if I am not misinformed. We have a housing crisis. Then why, in the name of heaven, doesn't this government come to its senses, find its conscience, and make it possible for us to expand the housing stock?

If Bill 198 is passed in its present form, we will have no alternative but to bail out of this industry at the first possible moment. Thank you.

Mr. Chairman: Will you please wait there? There are some members who wish to ask you questions. Mr. Philip?

Mr. Philip: I am sure that the minister will be pleased to find out now that the villain behind the Cadillac flip is really Sean Goetz-Gadon.

Sir, I made the statement earlier that you are the originator of the leaseback concept. Is that not true?

Mr. Krehm: That's not true. The leaseback concept blew in from the United States. We were one of the earliest people to use it. We are reported as buying buildings now, but that is not true.

Our leasebacks, after 10 to 15 years, have now expired. Our lessors have had the hell frightened out of them, like the Lehndorff Corp., which has abandoned the field; and we have bought only portions of buildings, in one case an entire building that we have managed for many years.

Mr. Philip: In the case of Lehndorff: Lehndorff, as I understand the concept, is the original owner.

Mr. Krehm: In one case, that is 100 Gloucester Street.

Mr. Philip: That's 100 Gloucester. I have your contract with Mr. Lehndorff.

Mr. Krehm: There is no Mr. Lehndorff. It is a company.

Mr. Philip: Oh, it's the Lehndorff Corp. It is an offshore landlord, is that correct?

You in turn, or Leander Construction Co. Ltd. and the Roster Construction Co. Ltd., then rent the building from--

Mr. Krehm: Rented. Nine per cent and 10 per cent, building up to 10 per cent over 15 years, which made it unnecessary for us to go into secondary financing. The tenants have had a hell of a swell deal, and that way, the six per cent London Life first mortgage was retained over all these years.

Mr. Philip: Is it not true, under that scheme, that in fact the tenants were being charged for the 10 per cent net proceeds received by the landlord?

Mr. Krehm: Just as they would with any mortgage. Because of this, we kept a stub of the six per cent first mortgage with London Life.

Lehndorff gave us back a 12 per cent mortgage for three years, which is a hell of a swell bargain, and the rest is being financed by a temporary loan from the Canadian Imperial Bank of Commerce, which started out being somewhere in the area of 19 per cent and is now coming down. As it is coming down, even before the decision on the rent review hearing, our rents are coming down.

Mr. Philip: You don't consider that the scheme you had, as the third part in this contract--

Mr. Krehm: Why the third part?

Mr. Philip: You were the third part, you are listed on the contract.

Mr. Krehm: Who is the second part?

Mr. Philip: Leander Construction Ltd.

Mr. Krehm: Leander is us.

Mr. Philip: Yes, that's correct.

Mr. Krehm: There are two parts, Lehndorff and us. Now there is only us. We are owners of the building.

Mr. Philip: You don't consider that just a nice way of passing on an extra 10 per cent to the tenants?

Mr. Krenm: For seven years, insinuations by people like Margaret Campbell and other two-by-four politicians have been made in that regard. I was never allowed to explain it. We have all our buildings leased back at rates lower than the secondary financing which would have been necessary.

At no time did Lehndorff extract more than 10 per cent net interest. They sold the building to us at \$20,300 per suite, well below the market price, and this was before the Cadillac Fairview kerfuffle. The offer was drawn up and accepted last February. That is an advantageous deal, and the tenants at the last hearing at 100 Gloucester were most concerned about our being forced to sell the building by any very unfavourable decision.

Mr. Philip: I wonder if I may direct my last question to the minister.

Mr. Chairman: Make it very short.

Mr. Philip: Is there not one of the most advantageous lease-back arrangements in the case of Cadillac Fairview?

5:40 p.m.

Mr. Chairman: No, Mr. Philip. The minister can discuss that in clause by clause. We are at 5:41 p.m. already.

Mr. Philip: I do not know why you want to protect the minister. I am sure he would be prepared to answer my question.

Mr. Chairman: Thank you very much. We have four minutes. My absence about an hour ago was to listen to Hansard to get the exact details of the motion that was put. I shall read it.

"Mr. Philip: I move that, in light of the large number of tenants that are expected this evening, we instruct our clerk to book a room that is more suitable for us, namely, in the Macdonald Block or any other place that will provide greater facilities for them to sit down in a comfortable way and listen to the presentation by their representatives."

That can mean numerous things. We are going to come back, at 7:30 p.m. The Federation of Metro Tenants' Associations, which is probably the largest group, is coming in at 7:45 p.m. We are going until 9:15 p.m. with witnesses the way we have now.

I want a motion from the committee in clarification as to whether we spend the entire evening there, or whether we spend it until the end of the session with the Metro tenants at 8 p.m. or whether we have the public presentations over there and have clause by clause back here. We need clarification as to how much of this evening is spent there and now much, if any, is spent here.

Mr. Epp: Mr. Chairman, I would suggest that we stay there. If we are already over there to hear the delegations, we could stay there and deal with the clause by clause.

Mr. Chairman: I need a motion.

Mr. Epp: I will so move.

Mr. Chairman: Mr. Epp moves that the committee stay there all evening.

Is there any discussion on this?

Mr. Philip: It was my intention that we stay there all evening. If the people from the federation arrive in large numbers, surely they will want to stay around for the clause by clause and also, as they have done in the past, to listen to the other presentations.

Mr. Chairman: Thank you. Is there any other discussion.

Ms. Fish: Yes. Do I understand, Mr. Chairman, that there is some problem with Hansard being available in the Macdonald Block?

Mr. Chairman: I understand from the clerk that Hansard has been arranged. There is a party over there. We do not know what stage it will be in when we get there. The Ontario Room has been arranged or spoken for. I know nothing more than that.

Ms. Fish: If I may add, Mr. Chairman, the reason for my question is that I had occasion, on the resources development committee, to sit through a lengthy set of hearings in the Macdonald Block, where Hansard was extremely important, dealing with the Weiler report on workmen's compensation. We had a great deal of difficulty with the microphones and with Hansard.

At the very minimum, I would want to be assured of very good Hansard reporting in so far as we might be dealing with clause by clause, possible amendments thereto, and discussion. I would be very concerned if there was any question in that regard. In consideration of my understanding of the motion, which was to permit the audience to have an opportunity of hearing their representatives make their presentations, we do need to ensure that we do have proper reporting, at least on clause by clause. If that means returning back here, then I believe it is important enough for the proper recording of those minutes and the debate around it to ensure that we do.

Mr. Brandt: I was going to raise the same question in regard to Hansard being available in the other building. As you know, we did not have it the last time and it was relatively inconvenient.

Frankly, I see no problem with our proceeding with the hearings in the other building, then with the agreement of the committee moving back here for clause by clause. I think there is some relevance to the arguments raised by Mr. Philip in regard to people who may wish to hear the proceedings, but the reality is that this room is somewhat more convenient and somewhat more conducive to the detailed discussion of clause by clause than would be the case if we were to remain in the other building.

Mr. Chairman: Mr. Swart, can you comment very quickly?

Mr. Swart: Am I correct that you said that Hansard will be available?

Mr. Chairman: It is my understanding that Hansard is being arranged for. I am not going to say what is available after the last time.

Mr. Swart: For two or three reasons, I think we should stay over there. One is the length of time it takes to come back from over there. Second is the argument put forward by my colleague that many of the people will want to hear the discussion on the amendments. If there is Hansard, I think that is the logical thing.

Mr. Chairman: Shall we vote on Mr. Epp's motion? That is that we stay there all evening during the public presentations as well as clause-by-clause consideration.

Motion negatived.

Mr. Chairman: I am now lacking a motion. What shall we do, gentlemen?

Mr. Brandt moves that, following the hearings that are going to take place in the Macdonald Block, the committee then come back to this building to resume clause-by-clause consideration.

Mr. Chairman: Is there discussion?

Mr. Philip: I have an amendment to it.

Mr. Chairman: Mr. Philip moves an amendment, that the session resumes in the Legislative Building in the event that Hansard states that it cannot give adequate coverage of the clause by clause.

Amendment negatived.

Interjections.

Mr. Chairman: Order. We have people waiting and they are not used to this procedural wrangling. We shall have the vote on Mr. Brandt's original motion.

Motion agreed to.

Mr. Chairman: I would remind you that we have between 9:15 p.m. and 9:30 p.m. to leave the Ontario Room, all going well getting back here and commencing clause by clause as per the mandatory instructions at 9:30 p.m.

The next group, please. We have Alderman Mike Foster, Ward 5, city of North York.

Ms. Fish: (inaudible)

Mr. Chairman: They did not show.

I might say that the Continental Tenants' Association did advise the clerk that they preferred this evening. They were told that only the 5:30 p.m. time slot was available. They might turn up this evening. I do not know. We shall deal with that as it comes.

Alderman Foster, thank you for your patience. Do you have a brief?

Alderman Foster: No, I am just going to make a verbal presentation.

Sitting here this afternoon, I have heard various witnesses cast aspersions back and forth as to who the good guys and the bad guys are in this whole issue. I wanted to say, at the outset, that I consider myself to be one of the good guys.

Mr. Chairman: Right.

Alderman Foster: I am speaking here today on behalf of over 280,000 people in the city of North York, a suburb of Metropolitan Toronto. Those 280,000-odd people represent the 52 per cent of the population of our city who are tenants. They are considerably concerned about events that have transpired of late, particularly the Cadillac Fairview thing, which seems to have inspired a lot of discussion on the whole subject of the rent review process and tenants' rights in general.

With all that in mind, I wanted to make a few submissions to the committee. The first point I wanted to speak of relates specifically to how the rent review commission will deal with financing costs. I think what you should consider putting in your amendment in the act is that no rent increases attributable to increased financing costs should be allowed, unless the applicant proves that the transaction is at arm's length.

5:50 p.m.

I say that for a couple of reasons. First, very simply, I think that people who rent accommodation and who live in a building owned by someone other than themselves have a simple underlying human right to know who their landlord is.

The second reason for proposing that is that I think tenants would like to know with surety that there are no phoney real estate transactions which are done with a view to just jacking up rents in a manner which, it is to be hoped, all of us consider unconscionable.

Interestingly enough, if you read the papers last week you saw that a particularly enlightened rent review commissioner did, in fact, make such a ruling. There was an application before him, and he dismissed a rent increase on the basis of financing costs because the landlord could not establish to him that the transaction was at arm's length. It was a numbered company application and the commission, wisely I thought, did not accept it.

I think tenants would like to see this kind of position entrenched in a piece of legislation rather than leaving it up to the discretionary judgement of a rent review commissioner. I would like to see that carved in stone.

The second point I want to make reference to comes as a result of the whole Cadillac Fairview situation. I feel a little bit sorry for Cadillac Fairview because, although there are still some suspicions, unless we find out otherwise all they did was sell their property at the beginning and all of the transactions subsequent to that certainly are not their responsibility.

I think that the provincial government could do something quite progressive here, something that the foreign investment review people either are not fully in power to do or certainly are not willing to do, it seems. I would like to see an amendment in the act that says that no pass-through for increased financing costs will be allowed by the Residential Tenancy Commission where a new owner of a property, a purchaser, is foreign.

I think you would find that your solicitor would advise you that it would certainly be within the jurisdiction of the provincial government to do that. Obviously it deals in a very direct way with the whole question of economic nationalism and foreign control of assets and so on.

I have been disappointed by the way that the Foreign Investment Review Agency has handled its job. One day, after doing a preliminary investigation, I wrote them a letter--I am pleased to say that it did a bit to trigger the whole investigation a couple of months ago--and they reported back to us that they really could not determine who the new owners are. The very day after FIRA officials said that, we saw people with Arab headaddresses running around the Royal York Hotel or the King Edward or whatever saying "We own it, we own it." Yet FIRA just could not put its finger on that at all.

I think that this second point I propose would be a radical step because it deals with the whole foreign ownership question and does not just deal with rents. However, as an economic nationalist, I certainly see a great opportunity here for the province to exercise certain discretions and give that economic nationalist position a boost.

The next point I wanted to make was that when the commission deals with applications for rent increases, I think one thing that it should clearly do in a specific way at the outset of the hearings is to somehow establish what it thinks the fair market value for which the property that has been sold may be resold. I think that that application before the commission should then proceed on that basis.

In other words, with the Cadillac Fairview deal, after all the transactions, many of us feel that the final selling price is greatly inflated and does not really relate to fair market value. Obviously, tenants would like to know that if a building is sold and a certain profit was made whether the profit was within the realm of the reasonableness. Certainly, the commission should have a mandate to study the price of it and look to see what is happening in the market and whether the deal was cooked or was a straight, legitimate transaction.

Another point I wanted to make deals with section 7 of the act, which is the repeal clause. I think the repeal clause should be deleted. I think this amendment act should be passed and just left there and at such time as the government or any other party in the Legislature feels that this particular bill does not have any value, it could bring in an act to repeal it then. I do not think there should be a built-in, self-destruct clause.

The reason I say that is that I am very concerned that the kinds of transactions of the sale of buildings that we saw with the Cadillac Fairview situation and what we have seen in a lesser scale with Greenwin and others around Toronto are going to become a more frequent event in today's economy. With respect to the general rental housing situation in Metropolitan Toronto and the province, as we all know, the vacancy rate in the east part of North York is apparently 0.0 per cent. In Metro in general it is 0.3 per cent, as I recall.

I think the rental housing situation today is very bleak. There is no new rental housing to speak of being created, notwithstanding a couple of co-ops which fortunately have been built.

We had one private proposal before our council on Monday. They wanted to build some one-bedroom apartments at Finch Avenue and Yonge Street that are going to be renting for \$600 a month. That maybe speaks to the submission that was made earlier about how the \$750 ceiling should be dealt with in some way. I would hardly consider \$600 a month for one-bedroom apartment affordable housing.

The point I am making is that I do not think there is any indication that things are on the upswing in terms of vacancy rates and in terms of rents in general. I think times are going to get tougher and tougher and, knowing that, it does not make any sense to go through what you are doing now and pass a bill that is going to blow up in a relatively short time. The problem is not going to go away until governments at various levels do something serious about it, and this bill really reacts to a crisis. What I am saying is that if you are reacting to a crisis, react to the full extent of the crisis, however long that may last, and not just a point in time within that crisis.

Before I conclude, I heard some landlords today and representatives giving all kinds of tales of woe about how grim it is to be a landlord in this city, how terrible it is and how the government has done this and that to them and that it is a really bad situation.

I am a tenant myself and I know a lot of other tenants who would love to have all of the emotional trouble of knowing that you own millions of dollars in assets that you can do things with. Some of us in society do not have that luxury. Maybe if I owned an apartment complex, I would be under a lot of stress that I do not otherwise feel right now, but if I was so inclined maybe I would not object.

I have one final point to deal with the housing issue in general. A previous witness implied that it was really terrible that Canada Mortgage and Housing Corp. provides all of these moneys to the public and the co-op sector. They provide assistance so mortgages can be reduced to two per cent interest rates and so on and so forth. It seems the position of the landlord industry, if I can call it that, is that is a terrible waste of government

funds. The government should not get involved with providing housing directly or through co-ops, and that is really bad and evil.

However, I do not hear many private developers complain when the government lays on programs like the Canada rental supply program where million of dollars of value through interest-free loans, to be specific, are provided to the private sector to create affordable housing. I am not sure that program works either, though, because these \$600 one-bedroom apartments were going to be produced under the CRSP program.

Those are my remarks. The last ones were just general, but I had the specific points I did want to make at the beginning.

Mr. Brandt: I wonder if the speaker would help me out with something. I have listened with some interest to your presentation and there are a couple of points you made.

One was with respect to the high percentage of tenants in North York--52 per cent I think you said--and then you went on to cite some statistics with respect to the fact there are almost no vacancies in most of Metro Toronto.

On the other hand, you made a comment a little later on in your presentation to the effect that you did not have a great deal of sympathy for developers in general, or at least this is the impression you gave. Would it be fair to say that you do not have a great deal of sympathy for developers in general? If you did not say that correct me, but that is the impression you left me with.

I would like to ask you a question. I am not trying to be provocative when I ask this question, but I ask this for the benefit of people like Mr. Philip and myself who are desperately, from opposite ends of the spectrum, trying to come to grips with this problem.

If you have a low vacancy rate and if you have a buoyant industry with a tremendous rate of return where you can make nothing but money, please tell me why people are not building apartments. It sounds as if is a fast track to riches. The vacancy rate is getting worse. It happens to be about zero in my community as well, and my percentage of tenants is much lower than the 52 per cent you cited. It is probably in the range of about 20 per cent.

The reality is that when I talk to tenants, they think that the rents are too high. I can appreciate that. I am a tenant here in Toronto as well. I am a tenant of Cadillac Fairview.

Mr. Foster: You are from Sarnia?

Mr. Brandt: Yes.

On the other hand, I talk to developers who say: "I will never build another building because I cannot live under the laws we have got now and the laws we are proposing are even more onerous. They are going to be even more difficult."

Forgetting all of the philosophical stuff about who should do what, I only ask you this question: Why are people, why are Herb Epp and Andy Brandt, not talking in the hallway about putting an investment together and putting up a building? Developers are not talking about it.

Mr. Philip: It is because of high interest rates.

Mr. Brandt: That is all of it?

Mr. Foster: If I could speculate a little bit, let us take the Cadillac situation. I think as a corporation--

Mr. Spensieri: Everybody is heckling poor Mr. Brandt.

Mr. Foster: Some of us have the ability to speculate a little more than others, like Mr. Brandt and Mr. Epp maybe.

Mr. Brandt: It is actually an indication of great riches in the party.

Mr. Foster: I guess in Cadillac's situation they had to decide on a corporate direction to take. They are a substantial landowner in terms of rental accomodation. They presumably came to the corporate decision that they could make a higher rate of return on their money from getting involved in other directions such as investing in a lot of commercial development in the United States as opposed to building more rental accomodation here. That would be one example I would give.

Another thing--this is a great way to conclude--is that I am really sick and tired of hearing landlords saying rent controls have destroyed the whole market and they have made it impossible for us to build. To me, that is a bunch of crap.

I have a specific piece of land in my ward up in Downsview where the rezoning for a high-rise building was obtained back in 1969. They obtained the rezoning for a big building in 1969 long before rent review was ever debated on the floor of the Legislature with any real chance of catching. They sat on it and then eventually, after rent review was brought in in 1977 or 1978, they built a rental building.

Mr. Chairman: Thank you. I think we have to cut off both the questions and the answers. I am sorry to have to cut off three members who want to ask questions. Thank you very much for your presentation. We are adjourned until 7:30 at the Macdonald Block, Ontario Room.

The committee recessed at 6:03 p.m..

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
RESIDENTIAL COMPLEXES FINANCING COSTS RESTRAINT ACT
MONDAY, DECEMBER 20, 1982
Evening sitting



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Epp, H. A. (Waterloo North L) for Mr. Breithaupt
Kolyn, A. (Lakeshore PC) for Mr. Mitchell
Philip, E. T. (Etobicoke NDP) for Mr. Renwick

Also taking part:

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
Fish, S. A. (St. George PC)

Clerk: Arnott, D.

From the Ministry of Consumer and Commercial Relations:

Crosbie, D. A., Deputy Minister
Williams, P. C., Chief Tenancy Commissioner and Chairman,
Residential Tenancy Commission

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, December 20, 1982

The committee resumed at 9:30 p.m. in room 151.

RESIDENTIAL COMPLEXES FINANCIAL COSTS RESTRAINT ACT
(concluded)

Resuming consideration of Bill 198, An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes.

Mr. Chairman: Gentlemen, we have a quorum. According to the motion of Friday last, the clause by clause must start at 9:30 p.m. and end at 10:30 p.m. I will underline that. It must end at 10:30 p.m. and in the form reportable back to the House. At 10:30 p.m. I will be calling for the votes on all clauses.

Hon. Mr. Elgie: I just wonder if it would be possible to get members' consent to have one of our members introduce my two amendments first, just in case there are time problems. I'll tell you why.

Under section 5, there is an error, in that the setting aside of equalization would apply, as it is now worded, only to those cases where a pass-through of financing cost was involved. It was our intention that it apply to all hearings where equalization was being requested. Second, in section 2 we need to accept section 5. It is in your hands, but I am just telling you that I think we should clear up the intent of section 5. Then you can do whatever things you want.

Mr. Philip: The easiest way, Mr. Chairman, would be, if the minister will accept my amendments, I'll accept his, and we can all go home in about 15 seconds.

Hon. Mr. Elgie: Well, it's always an interesting proposal coming from you, and I always like to give it the consideration it deserves. I'm not saying we shouldn't have any discussion on those two issues. I'm just saying that from the tenants' point of view these are two points which are important. I would have hoped you would give me the consideration of letting us deal with them first and then carry on.

Mr. Epp: Mr. Chairman, I would agree we should have some kind of discussion on these things. I disagree with Mr. Philip that we make a quick deal and go home. The amendments we've put forth, the amendments they've put forth and the amendments the government has put forth all deserve discussion. I would completely disagree with him on this. I have no have difficulty with what the chairman suggests.

Mr. Swart: Mr. Chairman, I think the member for Waterloo North misses the point. The minister rightly thinks he needs to have these amendments put through to tidy up the legislation. We

would consider our amendments to be much more significant for the benefit of the tenants than what he is proposing. Therefore, it seems reasonable for us to start from section 1, 2, 3 and go through the bill.

Hon. Mr. Elgie: Let's just move quickly. Everybody knows what the amendments are; we've made our speeches in the House on second reading. I'm sure we will get through the bill tonight.

On section 1:

Section 1 agreed to.

On section 2:

Mr. Philip: Mr. Chairman, my amendment is the first one on number two because it moves that section 2 of the bill be scrapped. Therefore I ask that you deal with my amendment at this time.

Mr. Chairman: Mr. Philip moves that section 2 of the bill be ~~struck out~~ and the following substituted therefor:

That the act applies to any application by a landlord to the commission under section 126 of the Residential Tenancies Act, where the commission's order pursuant to the application is made after November 16, 1982.

Mr. Philip: On the motion, it is our contention that this bill does not go far enough. This has been pointed out by numerous tenant groups. It does not apply to all tenants that have been affected by large rent increases as a result of financing it on the sale of properties. Therefore, we feel the other tenants, not just the ones covered by the bill, should be covered. That's the intent of this motion.

Mr. Epp: Mr. Chairman, we have a motion that is similar to this. We believe there should be an extension of the principle whereby more tenants should be included in the legislation. I raised it the other day in my comments during second reading in the House. The minister commented on that at that time. We have no difficulty with supporting this amendment.

Mr. Swart: Mr. Chairman, I recognize it's always difficult to set an arbitrary time. There is no question about that. This has been selected by us on the best grounds on which one can select it. It would apply to all of those where a decision had not been made by November 16. That date of November 16 was the time the minister indicated he was going to take some action.

Therefore, on that date landlords knew there would likely be a change made in the legislation which would prevent some of these pass-throughs. That was the first indication they had. Therefore, that is a reasonable date to us.

I would point out that during the years I've been a member of this Legislature, I have handled 30 or 40 rent review cases. We all know that during this past year there have been far more

applications and there has been a much greater backlog. October 31 is an arbitrary date. I think perhaps that date was set because that was about the time of the flip that was done by Cadillac Fairview.

As has already been pointed out here by so many of the people who have made representation to us, these conditions existed far prior to that. That was a big one. Why pick an arbitrary date like October 31 when you can pick a date like November 16? At that time, this act would apply on any decisions that have not been made. That's the reason we are submitting this date and the reason we think that change should be made.

Mr. Chairman: Thank you. Do any other persons wish to speak to this motion of Mr. Philip?

Hon. Mr. Elgie: I have just a brief comment. Let me first of all emphasize that my overall concerns about the act are reflected in the fact we have asked for some time to review the adequacy of the legislation in its totality. It was the specific events that occurred in early November that prompted the government to deal with this particular situation and similar situations. Having said that, I would also remind you that last summer, I commenced discussions with the commission asking them if they would review their guidelines.

We went through several stages, much like you're going through, about how retroactive one should be in legislation with the general principle that if the hearing had taken place it was very difficult to apply something in a retroactive way. We arrived at the proposal we have put here, that applications made after October 31, 1982--As you know, if they don't catch a hearing this year, we'll catch the application next year. In any event, there are guidelines in place.

9:40 p.m.

Second, we want to make it very clear to people out there in the real world that the government does not view multiple sales in a short time as costs that should be arbitrarily passed through to the tenants in any expeditious way.

I would have to oppose the motion on those grounds. It is very difficult for me and for counsel advising me to see that one should go back and change the order, even though there has been a hearing.

Mr. Philip: With some disappointment, I call the question.

Mr. Chairman: Thank you. All those in favour of Mr. Philip's amending motion, please raise their hands. Again, higher, please. Five. All those opposed, please raise their hands. Six.

Motion negated.

Mr. Eves: I have a government amendment to section 2 on the first line of the section.

Mr. Chairman: Mr. Eves moves that section 2 of the bill be amended by inserting after the word "act" in the first line, "except section 5."

Is there any discussion?

Mr. Philip: Mr. Chairman, I wonder, in the spirit of Christmas, if we could deal with that and section 5 at the same time. That will get the minister's amendments out of the way. I am quite prepared to do that.

Mr. Eves: Would you like me to move the amendment to section 5, as well, Mr. Chairman?

Mr. Chairman: No, we have one motion. We can only take one motion on the floor at a time. Is there any further discussion on that?

Mr. Philip: Unfortunately, this government has not been prepared to deal with the whole problem of illegal rents in an adequate way. Often what happens is landlords use illegal rents as a way of rationalizing upwards rather than rationalizing. We would go about it in a different way, but we will support the amendment.

Mr. Chairman: Fine, thank you. Is there any further discussion on the amendment of Mr. Eves?

All those in favour of Mr. Eves' amendment, please raise your hands. It's unanimous.

Motion agreed to.

Mr. Chairman: Shall we go to section 3?

Mr. Philip: Let's deal with section 5.

Mr. Epp: Mr. Chairman, before we go on, I have an amendment myself for section 2 which is a little different from Mr. Philip's. We have had partial discussion on it, but I would like to put it forward.

On section 5:

Mr. Chairman: Can we come back. It was sort of understood we would move to section 5, setting aside anything further on sections 2, 3 and 4. We'll go to section 5 and back.

Mr. Eves moves that section 5 of the bill be amended by striking out the words "and to which this act applies" in the third and fourth lines and inserting in lieu thereof "where the hearing in respect of the application is commenced on or after the day this act comes into force."

Is there any discussion?

Hon. Mr. Elgie: My only comment is the one I made before. It's apparent to us now that this setting aside of equalization, while the whole principle and whether it should be phased in and how it should be handled is reviewed, would mean that it would apply only where there was a pass-through cost involved. It was intention that it would apply to any hearing, whether or not there were costs being passed through.

Mr. Philip: May I just ask the minister one question. We will support it. If the minister is going to get away from the main principle of the bill, namely, An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes, why would he not at the same time put into the bill some way of dealing with the whole problem of illegal rents, namely, a registry or some other form of dealing with that problem?

Hon. Mr. Elgie: We are presently exploring ways and means that might be achieved in a pregnant way.

Mr. Philip: My goodness, how long does it take?

Hon. Mr. Elgie: Usually in the case of rent review we are able to get things done.

Mr. Philip: Your government's record may not be as good as yours.

Mr. Elston: It's not the same record.

Hon. Mr. Elgie: I know, you're a nice young man.

Mr. Epp: May I ask the minister a question?

Mr. Elston: I'm afraid he's going to invite me out to dinner with him and Elie.

Interjections.

Mr. Philip: Mr. Chairman, would you ask the minister to start practising politics and get away from brain surgery?

Hon. Mr. Elgie: I try to, but as I look around, I often feel the urge to go back to it. I can see a number of potential candidates.

Mr. Epp: Let the record show where he was looking.

Mr. Brandt: Can I help?

Hon. Mr. Elgie: You were the first candidate.

Mr. Swart: Don't let anybody deter you, Mr. Minister. There are all kinds of people who would like to see you go back to it, too.

Interjections.

Mr. Chairman: Order.

Mr. Philip: If you were to operate on that side, you might have trouble finding--

Hon. Mr. Elgie: No, now don't say it.

Mr. Chairman: Order. Mr. Epp?

Mr. Epp: Dealing with section 5, I had a few queries with respect to the equalization and whether this should be a percentage increase or a dollar increase. I know the minister indicated earlier today to me that he would take a look at that. I was just wondering if you have yet.

Hon. Mr. Elgie: Could we discuss this when we get to your amendment? I have talked to the commission about it, and they are prepared to discuss that when you get to it in terms of the problems they see with it. That's a separate amendment and we will be glad to discuss it.

Mr. Epp: We're dealing with that?

Hon. Mr. Elgie: Yes.

Mr. Chairman: We're dealing with section 5 now, Mr. Eves' amendment to section 5. Are there any other comments on Mr. Eves' amendment to section 5?

All those in favour of Mr. Eves' amendment, please raise your hands. Eleven, that's unanimous.

Motion agreed to.

On section 2:

Mr. Chairman: We're back to section 2.

Mr. Epp: With the kind of record that Mr. Eves had, maybe I should have given him my amendments. Maybe he will get unanimous support on them.

Mr. Brandt: Herb, it won't help.

Mr. Epp: At least maybe Mr. Eves would vote for it.

Mr. Chairman: Mr. Epp moves that subclause 2(b)(i) of the bill be amended by striking out "the day this act comes into force, and" in lines two and three, and substituting therefor "November 16, 1982."

Mr. Epp: This would include all those applications that were submitted, including November 16, rather than the day the act comes into force. It's slightly different than the one that the member for Etobicoke (Mr. Philip) raised earlier and I wanted to put it forth in view of the fact that the government seems to be more amenable to a few amendments now. Maybe they'll support it.

Mr. Philip: That, as you can see by my hand, was our backup amendment to my original amendment, part of the sense of compromise--

Mr. Chairman: Let the record show.

Mr. Philip: We were willing to compromise by having this amendment if the minister wouldn't back our original amendment. Therefore, of course, we would be happy to support Mr. Epp's amendment.

Mr. Swart It seems to be a very reasonable amendment. The date of November 16 is much more significant than the date this act comes into force, whenever that may be. They're only referring here to those properties where there has been a double flip.

The minister made it clear on November 16 that he was going to take some action with regard to those. Surely, let's make it November 16 rather than the day this act comes into force, which I presume would probably be tomorrow normally.

Hon. Mr. Elgie: We hope.

Mr. Swart: That is over one month later, and a lot of things could have taken place in between then and now with regard to applications. I think it's a very reasonable proposal. I'm sure that if the minister said he would accept this, the Conservative members on that side would support it.

Hon. Mr. Elgie: My comments are really the same as to the first amendment to section 2 on the reasoning that led us to these two amendments. I would have to stand by that position, Mr. Chairman.

Mr. Philip: Call the question.

Mr. Chairman: You are looking at Mr. Epp's amending motion. All those in favour of Mr. Epp's motion, please raise their hands. Five.

All those opposed, please raise their hands. Six.

Motion negatived.

Mr. Chairman: Mr. Epp, I think you have another.

Mr. Epp: I have another one. I have one to clause 2(b).

Mr. Chairman: Mr. Epp moves that subclause 2(b)(ii) be deleted.

Mr. Epp: As you see, "the application is in respect of a residential complex that has been purchased more than once after the 31st day of October, 1979." That would apply to all units.

Mr. Philip: We will support that for the reasons we gave earlier for our original amendment to section 2.

9:50 p.m.

Mr. Chairman: Thank you. Any further discussion?

All those in favour of Mr. Epp's amendment, that 2(b)(ii) be deleted, please raise your hands. Five. All those opposed, please raise your hands. Six.

Motion negatived.

Mr. Chairman: I believe Mr. Epp also has the next amendment.

Mr. Philip: I believe I have the next amendment.

Mr. Chairman: Sorry. Shall section 2, as amended, carry?

Section 2, as amended, agreed to.

On section 3:

Mr. Chairman: According to what I have, Mr. Epp is amending subsection 3(1). Mr. Epp, you are on subsection 3(3).

Mr. Philip: No, I am on 3(1). Since mine strikes the whole section, I believe it takes priority, but you may want to check that.

Mr. Epp: Well, 3(1) comes before 3(3).

Mr. Chairman: No. Mr. Philip's is underneath. Look underneath his. His is stapled out of order.

Mr. Philip: Sorry, they were stapled are out of order. Just check the next page.

Mr. Chairman: Mr. Philip moves that subsection 3(1) of the bill be struck out and the following be substituted therefor:

3(1) Despite sections 125, 131, 134(1)(c) of the Residential Tenancies Act, no landlord shall increase the rent charged for any rental unit by more than five per cent of the last rent that was charged for an equivalent rental period.

Mr. Philip: This is a much simpler way of going about the problem. While the study that is promised will take approximately a year, maybe a little less, we feel that there should be a freeze of five per cent on all rents in this province.

This has been requested by the various tenant groups. We concur with that. We recognize that it is only an interim freeze, namely, until such time as the minister can deal with the problems that tenants have been bringing to his attention and that we, in the New Democratic Party, have been bringing to his government's attention for a number of years. That is the purpose of the amendment.

Mr. Epp: Mr. Chairman, the amendment is similar to ours and we support it. We very heartily support a five per cent freeze in the rental sector as well as in other sectors, as we have with respect to the restraint bill, Bill 179.

We are trying to be very consistent with respect to this, and we are consistent. As you know, we opposed the Hydro increases of eight and some per cent. We opposed the OHIP increases of about five per cent. We oppose any energy costs or other increases above five per cent.

We are obviously in support of this particular amendment. It is a continuation of the restraint bill, which says that we should limit increases to five per cent.

Mr. Swart: I want to speak in support of this bill, in addition to the reasons given by my colleague and all the reasons given in second reading.

I want to point out now that this government has seen fit to impose a five per cent freeze on salaries of 500,000 people in this province, regardless of the effect on those people, regardless of how it is going to hurt them. I heard one of those making a submission this afternoon say that if you want to do something about inflation, you're going to have to do something about prices.

That has been, as the minister and the members here well know, the view that we have had within this party. That is where the first steps should be taken. We have endeavoured to change that bill to a fair prices commission. We endeavoured, even in that bill, if we had got to those amendments--and we made this perfectly clear--we would have put this five per cent limit on it.

We regret that the Liberals were not prepared to go along with us on our fair prices commission, but we are being perfectly consistent. The government has decided to impose this five per cent freeze, this added weight, on 500,000 civil servants. If there is going to be any degree of equality, then surely on something like rent we should be willing to do the same. It is simply not good enough for the minister or anyone else to say, "Yes, but there may be great injustices here if we do this."

You did not take that into consideration when you froze the salaries of the civil servants. Many of those are going to be the ones who will have to pay the 15, 20 or 25 per cent increase in rents. If you believe you have the power to commit those injustices there, if you will, surely you should have some degree of fairness and support this proposal by my colleague Ed Philip put on behalf of the NDP.

Mr. Chairman: Thank you. Mr. Minister?

Hon. Mr. Elgie: First of all, in response to Mr. Swart, the government has made it very clear that it would have favoured an all-Canada wage and price control program. In the absence of that, and the political will being that the public sector set the example for a variety of reasons, this is the route this government has chosen to take.

We are keeping in mind that there is also a bill before the House, allowing it to opt into a national scheme, should one happen.

I think there is evidence now that inflation is plummeting. There is also evidence that interest rates are following it. I think that speaks well of the whole process in both the private and public sectors, where settlements and prices are dropping.

As you and I have commented on many times, it is most striking in the food area--

Mr. Swart: Especially the farmers.

Hon. Mr. Elgie: --where there have been striking decreases in prices. In any event, as you know, there has been a rent control system, a rent review system, in place in this province since 1975, carried on even after wage and price controls were lifted. By and large, it has served the people well.

We are now seeing some changes based mainly on interest rates and on energy costs. More recently, there have been changes in interest rates on the basis of sales that have occurred and the financing associated with them. It is our view that it would just not be practical at this time to consider this issue in isolation.

The whole issue of how rents are to be increased is before the Thom commission. As I have already said, it would be my intention to introduce legislation in the fall of 1983. I have also asked chairman Thom to submit interim reports, so that if there are matters that should be dealt with before then, that could be done. For that reason, I would think that this issue, in isolation, should not be one that is considered.

Mr. Chairman: Thank you. Any further discussion?

All those in favour of Mr. Philip's amending motion, please raise your hands. Five. All those opposed, please raise your hands. Six.

Motion negatived.

Mr. Chairman: Mr. Epp moves that subsection 3(1) be amended by striking out "where" in line four and substituting therefor "whether or not," and that it be further amended by striking out "as the component of the total increase in rent determined by the commission that is attributable to such increase in financing costs" in lines eight to 10 and substituting therefor "an overall rent increase of."

Mr. Epp: The effect of this is to limit the increase to five per cent, Mr. Chairman.

Mr. Philip: The same arguments recycled by us and by the minister. Let's take the vote.

Mr. Chairman: Any further comments? Any different comments, Mr. Minister?

Hon. Mr. Elgie: No.

Mr. Chairman: All those in favour of Mr. Epp's motion, please raise their hands. Five. All those opposed, please raise your hands. Six. The motion fails six to five.

Motion negatived.

Mr. Chairman: Mr. Philip, you have section 3, dealing with subsections 3(3) and 3(4).

Mr. Philip moves that section 3 of the bill be amended by adding thereto the following subsections:

(3) A landlord that is a corporation and has made an application under section 126 shall disclose the names and addresses of all persons owning five per cent or more of the issued shares of the corporation.

(4) The commission shall adjourn the application until the landlord makes disclosure under subsection 3(3), and where the landlord fails to make such disclosure within 30 days of such adjournment, the commission shall issue an order that rents shall not be increased for a period of one year from the date of the order.

10 p.m.

Mr. Philip: We recognize that it would be more appropriate to have the disclosure amendment in the Corporations Information Act. We moved that in 1977, but unfortunately the other two parties voted against it. If that had not been the case, maybe we would not have the problems that we are now facing.

Having said that, we cannot amend the Corporations Information Act because it is not before us. Therefore, we have taken the less satisfactory route, but nonetheless, one that deals with the basic principle that we feel is just.

It is impossible, or very difficult to say the least, to find out whether or not transactions are arm's-length transactions unless we know the principals involved in the corporation. We have only during the last few days had examples that I revealed in the House where the commission was denied the information when the commissioner asked for that information.

In one case, it is my understanding that the landlord, even though he was allowed a 23 per cent increase but not the financing pass-through, is in the process of appealing that. By putting this into statute, you are, in fact, giving your residential tenancy officers the power to demand that information and not to run the risk of that demand being challenged in either the courts or in an appeal.

We do not know the result of the appeal, but surely the principle is sound. It was sound when we moved it to the Corporations Information Act, and we think that it is sound under this act. Tenants have a right to know who their landlord is.

Mr. Elston: I have some concerns about the amendment. Although in principle I think I can support it, there are some very difficult situations which it does not deal with.

If we are looking for disclosure in the issue in this type of situation, I think we have to deal with differentiating the non-arm's-length from the arm's-length transactions. Where you ask that all the names and addresses of persons owning five per cent or more be disclosed, it is not unusual to have nothing but corporate clientele. I presume that "person" in this sense is meant in a much broader fashion.

I suppose if there is anything that we ought to have learned from the series of transactions that have occurred, it is the fact that merely asking that the applicant unveil the owner of its shares will not in itself solve the problem. Any number of corporations can hide those people behind the scenes. We could have any series of numbered companies which would, on the face of them, appear not to be related. Only when you get to the directors or nominees or beneficial owners or whatever, you may start finding some interrelation between the corporations.

In this section there is no way, if Mr. Phillips was actually trying to get to the final beneficial owner, that those sorts of items would come to the fore. I see what he is getting at and I rather suspect that the result of the placement of the amendment will not require us to refine it. I can support in principle what he is trying to do, though, in dealing with that non-arm's-length/arm's-length transaction problem.

There are a number of philosophical questions that we get to--in fact, we discussed them in the brief interlude between Macdonald Block and here--with respect to the types of difficulties that solicitors might get into if they are forced or requested by a commission to reveal the names of a (inaudible) trust for which they are acting under strict terms of a trust agreement which requires nondisclosure.

All sorts of ramifications there may cause us difficulties. But I think that this type of thing has got to be at least opened up for discussion so that we can get behind those types of transactions which we have seen recently. I think all of us, even those of us who are professional and not lay people in terms of the tenants' groups, who are trying to find out who the owners are, have been stymied in relation to finding out the real and true owners. I dare say that probably the minister and his officials have run up against some difficulty.

I think perhaps he might consider this in particular as a starting point for rethinking the whole disclosure issue and perhaps for developing at least some guidelines for the rent review people.

Mr. Philip: I accept the comments made by Mr. Elston. That was one of our problems, with having only a limited number of hours to prepare this bill.

It is quite common, though, in a committee like this, if the minister and the other parties will accept the principle of an amendment, to agree that a member from each can get together with legislative draftsmen and clean up the wording to do what is the intent of the amendment. I am sure Mr. Elston would accept that, since he has agreed with the principle of it. I hope the government may also accept that and that the government members will vote for the amendment with that understanding.

Mr. Swart: I should just like to add that I think it is clear what we are endeavouring to do with this clause--to provide a penalty if there is no disclosure. There may or may not be a penalty now with regard to pass-through of finance, but we are saying that is not enough.

First, if they do not want to disclose who the beneficial owners are, then there should not be any rent increase at all. Second, we think that just to put the sort of penalty in the guidelines, as it is at present--there is one penalty there now--is not good enough because it can be taken to court, as my colleague has just said. It is not a law when it is in the guidelines.

Even if we were only to leave the one penalty, where we have no pass-through to financing, it is clearly much better to have it in the act than it would be just in some guidelines which may or may be not followed by the rent review commissioners and which can be appealed. So we really believe there should be a penalty that is put in the act.

Mr. Brandt: By way of pursuing that same point, I wonder if the minister could answer a question in regard to the way in which the commission is presently dealing with this very matter. How do you fact establish the propriety of a transaction in attempting to establish the arm's length relationship between, say, two numbered companies in a sale where they are asking for an increase which is predicated on the value of that particular sale? What happens? Does the whole machinery grind to a halt now?

Hon. Mr. Elgie: If I could refer to last week's case, where Commissioner Braund was faced with the issue of a numbered company being the last company in a chain of events. In that case he held that it was vital that he know who the beneficial owners were in order to make a determination as to whether or not there had been an arm's-length transaction.

The commission is presently working on a disclosure form which would require applicants to fill in if the commission determined, on the basis of the application, that such information would be vital to the hearing.

I know that Mr. Philip and others will say that the decision of Commissioner Braund is up for appeal, but it is our view that the two avenues that are now available, namely, the decision of Braund and, second, the disclosure form which the commission will be requiring in appropriate cases, provide us with the tools we need in order to ascertain beneficial ownership for the purposes of that hearing.

That sets aside the broader issue that Mr. Elston referred to of whether or not one should look at the whole issue of seeing through the corporate veil. There are certain instances when it might be to the detriment of some parties, at least for a time, to see through the veil, and there are many arguments that many people would like to put. Certainly, it is a policy issue that we will be looking at because it arises in this as well as in other matters.

I do not, however, think it is a policy issue which should be determined in a broad way like this at this time, when we already have things in place with the Residential Tenancy Commission, which I think will deal with specific problems related to arm's-length transactions.

10:10 p.m.

Mr. Brandt: I should like to say, very quickly, that I raised the question because I want the members of the opposition parties to know that I personally have some sympathy for the views they are putting forward. I wanted the minister to indicate the kinds of mechanisms that are presently being employed in order to deal with that specific issue.

It perhaps may not go as far as may be wished on the other side, but at least it covers the essential thrust of what you are trying to get at, which is disclosure of those numbered companies to ascertain whether in fact these dealings are at arm's length or not at arm's length.

Hon. Mr. Elgie: In answering you, I would remind you of section 93 of the Residential Tenancies Act which really says that every decision of the commission shall be upon the real merits and justice of the case. It's our view, although it's subject to appeal, that Commissioner Braund has endeavoured to invoke that section to its fullest extent.

Again, let me say that I'm not saying that personally I have any opposition to the view that there are circumstances when the corporate bill should be (inaudible). I think that is a public policy issue that one shouldn't resolve right here and now in this bill.

Mr. Elston: Can the minister tell when a situation might arise where a commissioner wouldn't want to know about the beneficial ownership vis-à-vis two companies? I mean to determine the non-arm's length information--

Mr. Williams: One situation might be where there's no increase in financing. Another might be a simple sale. Another situation might be where the owner has died and so the ownership is forced to be transferred through the estate of the will. Another example might be where a bankruptcy has occurred, the more obvious ones such as I have just given examples of.

We are working on a disclosure document where a sale has taken place and it is difficult to determine whether an arm's-length transaction has taken place and we would ask that the

document be completed at that time. This would be after the application has been submitted to the Residential Tenancy Commission. From perusal of that document, we would determine whether or not the form would be required to be completed. If the landlord company fails to complete the form at that time, then the landlord may suffer an adverse decision of the commissioner.

Mr. Elston: I can see in a bankruptcy situation if you have companies which are related in terms of financing. For instance, you get into the question of Greymac where their current situation is where they are related, or at least companies that appear to be related in one way or another.

Hon. Mr. Elgie: Associated in some way.

Mr. Elston: Associated, yes. Even in a bankruptcy situation where one may have been a prime creditor and you're using the mortgage of another transaction. It seems to me even though you cite those particular situations--I thank you for those--in each one of those situations you may very well want to know a little bit more about the real connection behind all that.

Mr. Williams: Obviously, you are referring to numbered bankruptcy situations. I was referring to company A, B, C going bankrupt.

Mr. Elston: Even, with respect, if you have a name company, in my opinion, it doesn't much matter to a tenant whether their landlord is George Doe Corp. or whether it's the six numbered corp. Ontario Ltd. I don't know whether you know anything more about that corporation from their letterhead reading John Doe or the numbers. I don't think I do.

Mr. Williams: I think you've made an excellent point. The point that you are making is that it is very difficult to write a piece of legislation that would allow you to get all of the information in the instances that you refer to, and yet to protect corporations or individuals in instances where it is not required. Rather, section 93 of the Residential Tenancies Act, a portion of which the minister has just read, is very broad right now and allows the commission a great deal of discretion in pursuing specific cases where it is of the public interest to pursue such matters.

Mr. Philip: I don't want to prolong it, but I'll ask a double question and then perhaps we can take the vote. Would you not agree that failure to complete the form as requested by a landlord or by a numbered company, followed by your failure to hear the case or whatever other disciplinary action you wanted to take, can also be subject to another appeal?

Hon. Mr. Elgie: The answer would have to be anything can be subject to appeal.

Mr. Williams: Yes, it could be appealed.

Mr. Philip: Why would you not put into statute something that would force disclosure without the ability to have your tenancy commission tied up in an appeal or, worse still, in a court case the results of which you do not know or can't predict?

Hon. Mr. Elgie: What I am saying is whether or not we agree on the issue of disclosure, and I am sure each of us in this room has different views about it, you must have in 1976, I believe it was, when the issue was discussed, the issues of privacy and when one should have the rights to privacy and when a corporation should have the right to privacy.

What I am saying to you is that the overall principle of piercing that privacy veil of an individual or a corporation is an issue which I do not think should be resolved in totality in this way, but rather I believe that the discretion the commission now has to pierce it in appropriate cases is the appropriate one, pending a public policy decision on the specific question you raise with your amendment.

Mr. Philip: If you lose the appeal, will you introduce legislation?

Hon. Mr. Elgie: If I lose the appeal, I will certainly look at remedies.

Mr. Philip: You should be the Premier. You are about as evasive in your answers as he is.

Hon. Mr. Elgie: You have taught me a lot.

Mr. Chairman: Any further discussion?

There being no further questions, we are dealing with Mr. Philip's amendment adding subsections 3(3) and 3(4).

Motion negatived.

Mr. Chairman: I am going to ask the question on section 3, which simply has with it subsections 1 and 2. Shall section 3 carry?

Section 3 agreed to.

Section 4 agreed to.

On section 5:

Mr. Philip: I believe my motion is to delete section 5 and put in a new section.

Mr. Chairman: Mr. Epp moves that the bill be amended by adding thereto the following section:

5(1)1. In this section, "dwelling unit" means a room or suite of two or more rooms designed or intended for use by one or more persons as living accommodation in which culinary and sanitary conveniences are provided for the exclusive use of such person or persons.

2. Notwithstanding section 45 of the Planning Act or sections 34 and 44 of the Ontario Heritage Act, in every community where the vacancy rate is below three per cent the local council may refuse to issue a demolition permit for the demolition of any building subject to this act, if such building contains six or more dwelling units, other than a building coming within the definition of tourist establishment as defined in the Tourism Act or except where such building is,

(a) unsafe within the meaning of the Building Code Act, or

(b) built to a residential density which is 50 per cent or less of the maximum residential density which the council may by bylaw permit under the official plan for that municipality, in which event this section shall not apply.

3. Nothing in this section shall derogate from the authority of the council to refuse to issue a demolition permit under any act where, had this section not been enacted the council would be entitled to refuse to issue a demolition permit.

4. Where the council refuses to issue a demolition permit under this section or neglects to make a decision thereon within 45 days after the receipt by the clerk of the corporation of the application, the applicant may appeal to the Ontario Municipal Board within 30 days after the expiration of the 45 days hereinbefore referred to, as the case may be, and the Ontario Municipal Board shall hear the appeal and either dismiss the same or direct that the demolition permit be issued and the decision of the board shall be final.

5. The person appealing to the Ontario Municipal Board under clause 4 shall, in such manner and to such persons as the Ontario Municipal Board may direct, give notice of the appeal to the board.

10:20 p.m.

5(2)1. In this section, "dwelling unit" means a room or suite of two or more rooms designed or intended for use by one or more persons as living accommodation in which culinary and sanitary conveniences are provided for the exclusive use of such person or persons.

Mr. Epp, do you want these two voted on at the time time or at separate times?

Mr. Epp: At the same time.

Mr. Chairman: To continue:

2. This section applies to every municipality where the local council does not have the authority to refuse demolition permits to applicants who have obtained building permits under the relevant statutes, for any building that is,

(a) unsafe within the meaning of the Building Code Act; or

(b) built to a residential density which is 50 per cent or less of the maximum residential density which the council may by bylaw permit under the official plan for the city of Toronto,

in which event this section shall not apply;

3. When the owner of any building containing six or more dwelling units other than a building coming within the definition of tourist establishment as defined in the Tourism Act or except where such building is defined in clause ii applies for

(a) a demolition permit; or

(b) a building permit entailing work that will require

(i) a demolition permit; or

(ii) possession of the units under 5(2)1 of the Residential Tenancies Act

the landlord shall no longer be entitled to any rent increase above the total of the last lawful rents that were charged for the residential complex.

Mr. Epp: In essence, this is the same as the bill that was put forward by the member for St. George (Ms. Fish) which she put through as a private bill, Prl3, which went before the justice committee and was heard, and which I think had a lot of support from the ratepayers and the tenants, etc., of Toronto.

It is a concept and amendment that could easily be accepted by this committee and get the wholehearted support, I think, of most people in this province. In essence what it means is that you cannot just go ahead and demolish a building without going through certain safeguards.

Mr. Philip: This amendment does what I attempted to do in my private member's bill under the Planning Act and what Bill Prl3 attempts to do. The Minister of Municipal Affairs and Housing (Mr. Bennett) has clearly indicated he is not prepared to pass that. Therefore we hope that, as the Minister of Consumer and Commercial Relations tends to be more progressive in his thinking than the Minister of Municipal Affairs and Housing, he will accept this amendment.

I call the vote.

Mr. Chairman: Thank you. By the way, Mr. Philip, we will have a bit of a different answer for you on your next amendment, as to reading it out.

Are there any other comments? Does anyone wish to address Mr. Epp's amendment, subsections 5(1) and 5(2), before the minister addresses it?

Mr. Brandt: I have one comment. I see some basic inconsistency between this amendment and the position of the member for Waterloo (Mr. Epp) in connection with private property rights. I have to make that point with some dismay. I don't see the consistency between the two positions you've taken on this amendment and on your earlier position. I have some difficulty with that.

Mr. Epp: My private property rights resolution will be coming before the House some time in the new year, Mr. Brandt, and I am sure that you will be able to speak to that and support it as I will do.

Interjections.

Mr. Philip: There is no consistency--

Mr. Chairman: Mr. Minister, do you wish to address yourself to Mr. Epp's amendment?

Hon. Mr. Elgie: As to the inconsistency with Mr. Epp's motion and this motion? No, I don't want to.

Mr. Philip: Call the vote.

Motion negatived.

Mr. Chairman: Mr. Philip has an amendment to the new clause 5(a). Mr. Philip moves as follows:

5(a) Section 111 of the Landlord and Tenant Act is amended by adding thereto the following subsection:

(3)(a) Every landlord shall maintain and keep available, in the residential complex, for examination all reasonable hours, a schedule showing, for each rental unit located in the residential complex of which he is the landlord, the following information:

(i) the number of bedrooms;

(ii) the current rent being charged for the unit;

(iii) those services and facilities, accommodations and things included in the current rent for which a separate charge is allocated by the landlord and the amount of each such charge;

(iv) the immediately preceding rent that was charged for the unit;

(v) the date of the last rent increase for the unit.

(b) Where there is more than one rental unit in a residential complex, the landlord shall post up conspicuously and maintain posted a notice advising of the existence of the schedule and when and where it may be examined by persons having an interest in the matter.

(c) Every landlord shall, at least once in every 12-month period, give to the Residential Tenancy Commission established under the Residential Tenancies Act a copy of the schedule maintained by him under clause (a).

(d) The residential tenancies commissions shall keep the schedule received by it under clause (c) in the region in which the residential complex is situate and shall make the schedule available for examination by any person having an interest in the matter.

(e) The commission shall audit any schedule submitted under clause (c) to determine whether the rents thereon are legally chargeable rents for the units concerned.

(f) For the purposes of clause (e), the legally chargeable rent for a unit is the rent legally chargeable under the Residential Tenancies Act.

(g) The commission shall, at least once in every 12-month period, conduct a survey of all rental residential premises to determine whether the schedule has been filed by the landlord under clause (c).

Mr. Philip: What this attempts to do, Mr. Chairman, is that we believe that there should be a registry. We believe that there has been a great problem about this. We know that tenants have been going to this ministry over and over again for the last four or five years on this problem. This attempts to help the minister do what he has said in essence he supports. We don't see any reason why we should wait for a commission to report a year from now in order to deal with the problem of illegal rents.

Mr. Epp: I have no difficulty in supporting this particular amendment. There may be some differences with respect to the way it is actually implemented and so forth, but I think from the standpoint of the principle of the registry, as you know, we have been in support of this all along. In fact, when Bill 163 came along we supported it then. We regret very much that it hasn't been implemented. I do wish the minister would get on his white horse and implement it as quickly as he can. That's almost now. We support it.

Hon. Mr. Elgie: The only comment I have to make, Mr. Chairman, is that I have indicated a great deal of support for endeavours to get at the issue of illegal rent increases. We are presently exploring ways and means of having viable ways of dealing with this issue. As you know, part of the bill that we passed in 1979 was struck down by the Supreme Court. Those are matters we are looking at now. For that reason, I would have to oppose this motion at the present time.

Mr. Chairman: All those in favour of Mr. Philip's amendment regarding a new section 5(a), please raise their hands. Five. All those opposed, please raise their hands. Six.

Motion negatived.

Mr. Chairman: All those in favour of section 5, as amended, please raise your hands. Higner, please. Opposed? I think I saw all of them.

Section 5 agreed to.

On section 6:

Section 6 agreed to.

On section 7:

Mr. Chairman: Mr. Philip moves that section 7 of the bill be struck out.

On Mr. Philip's amendment, I have to rule that out of order in that it is deleting a whole section of the bill. The proper way is to vote against it if you don't wish it. It's not in order to have a deletion motion of an entire section.

Mr. Philip: I could argue that, but I will simply speak on section 7.

Mr. Chairman: Yes, carry on.

Mr. Philip: Mr. Chairman, we have had promise after promise by this government that it would deal with the problems of tenants. They have not produced. Before I will see what little protection that is given under this act repealed, I want to see what the new legislation is going to be. Therefore, I will vote against this repeal.

Mr. Swart: Just to add to what my colleague has said, we recognize that Bill 198 is interim legislation until we get something else in place, we hope some very fundamental amendments to the rent review act. To put in a self-destruct clause when we don't know when new legislation will be introduced seems to me to require faith on the part of us and the tenants that is not warranted.

Why would the minister not himself remove this clause? The government has power to bring in a bill to rescind this bill. In fact, it can be right in the new rent review act. That would seem to be the reasonable way to do it.

You do make us very suspicious that the intent may be in a year's time to abandon even this interim measure without any changes in the rent review act. Because that is what could happen, we have to oppose this section of the act. As limited protection as it is, we want to see this stay in force until we get some fundamental amendments. There is no guarantee whatsoever that we will if we leave in section 7.

Mr. Philip: There is no guarantee that you will be minister in a year's time of this ministry.

Mr. Elston: As Mr. Philip and Mr. Swart have argued, I think that rather than tying the end of this bill to a particular date, we really should have it tied to a particular event such as reacting to the Thom report or with a particular piece of legislation. I think that would probably give all of us a great deal more satisfaction and faith. At that time, we would be able to again come back to the minister and provide him with some enlightening comments to help him develop some very good and practical legislation.

Mr. Philip: What happens if Claude Bennett becomes your successor? Do you really think that you are going to get anything in the years to come?

Mr. Chairman: It being 10:30 p.m., we will carry the remaining sections. Shall section 7 carry?

Mr. Swart: We need a recorded vote.

The committee divided on section 7, which was agreed to on the following vote:

Ayes

Brandt, Eves, Kolyn, Piché, Stevenson, Watson.

Nays

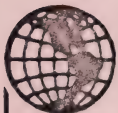
Elston, Epp, Philip, Spensieri, Swart.

Ayes 6; nays 5.

Section 8 agreed to.

Bill 198, as amended, reported.

The committee adjourned at 10:32 p.m.



INTERNATIONAL REPORTING INC.

J-74A

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
BILL 198, RESIDENTIAL COMPLEXES FINANCING COSTS RESTRAINT ACT
MONDAY, DECEMBER 20, 1982
Evening Session





INTERNATIONAL REPORTING INC.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Barlow, , W. W. (Cambridge PC)
Elgie, Hon. R. C. , Minister of Consumer and Commercial
Relations (York East PC)
Elston, M. J. (Huron-Bruce L)
Epp, H. A. (Waterloo North L)
Eves, E. L. (Parry Sound PC)
Kolyn, A. (Lakeshore PC)
Philip, E.T. (Etobicoke (NDP)
Piche, R. L. (Cochrane North PC)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)

Clerk: Arnott, D.

Witnesses:

Layton, Jack, Alderman, Ward 6, City of Toronto

Martin, Dale, Federation of Metro Tenants' Associations

Parson, Kay

Goetz-Gadon, Sean, Dundas/Beverley Tenants' Association

Newell, Van

Schultz-Lorentzen, Finn

Blazer, Michael, Jane/Finch Tenants' Association

Goyeau, Angela

Goyeau, John, 60 Gloucester Street Tenants' Association

Hunt, Diana

Bever, Fred, Parkdale Community Legal Services



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LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, December 20, 1982

The Committee resumed at 7:30 p.m. in the Ontario Room, MacDonald Block, Toronto, Ontario.

BILL, 198, RESIDENTIAL COMPLEXES FINANCING COSTS RESTRAINT ACT
(Continued)

Resuming consideration of Bill 198, An Act to provide for an Interim Restraint on the Pass Through of Financing Costs in respect of Residential Complexes.

Mr. Chairman: May I call the meeting to order. I should like to confirm that ~~Mr.~~ Stevenson is back with us for the evening session.

The First witness on the agenda is Alderman Jack Layton of Ward 6 for the City of Toronto.

Gentleman, There are two microphones that can be used by the centre table, one on the right and one on the left, and there is one for the witnesses.

Now, we don't have our regular Hansard people here so I am going to identify the members of the Committee for the reporter: the NDP over on the left, Mr. Philip and Mr. Swart. You might put your hands up for the gentleman when I call your name. At the centre table is Mr. Elston, Mr. Spensieri, Mr. Epp, Liberals. PC, Mr. Kolyn, ~~Mr.~~ Stevenson, Mr. Eves, Mr. Barlow and Mr. Piche.



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Fine. Thank you very much.

Alderman, could you carry on, please.

Alderman Layton: Thank you very much,

Mr. Chairman and Members of the Committee.

This will be a fairly short presentation. I know that you have heard many of the views that I will be expressing. I think that the Committee has before it an opportunity to take a dramatic step in favour of tenants across the province, particularly in Metro Toronto where the most dramatic rent increases have taken place.

I was pleased to hear that the Ontario Government was submitting a Rent Restraint Bill. I am not satisfied with the provisions of the bill but nonetheless the intention expressed by the government in addressing the problem with a separate piece of legislation is, I think, one that we should applaud.

However, my submission to you is that we should make sure that the rent restraint legislation provides protection to all tenants and not just a small group. It is not that this small group doesn't deserve protection, they certainly do. However, there are many other tenants who would not fall within the purview of the legislation who I think deserve that same protection and I am sure that you have been hearing from them and will continue to hear from them.

Otherwise this bill puts in place a situation



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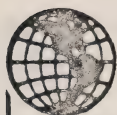
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5 where some tenants faced with dramatic rent increases as a
result of the sale of their building will be protected while
10 other tenants faced with dramatic rent increases as a result
of the sale of their building will not be; and I think that
the basic concept of equity, which I assume everybody in the
room to advocate, would demand that we make sure that the
15 legislation apply to all who are in a similar situation.

What has struck me, and I am obviously coming
out of a recent intensive experience of the municipal election
in Ward 6 of the City of Toronto, is that tenants perhaps
15 for the first time in many years, and maybe beyond any previous
past expression of discontent, are expressing dissatisfaction
with the rental situation.

I know some will argue that they have been pro-
20 tected beyond what they deserve. However, my conversations
with tenants certainly would indicate that this is not the
case. For example, in several buildings in downtown Toronto
known as City Park Apartments which are right behind the Maple
Leaf Gardens, we have a situation where three large buildings
25 having over 900 units were sold in June, exactly the same
kind of situation as happened in the Cadillac Fairview sale
except on a somewhat smaller scale.

30 These tenants are now faced with very large rent
increases, anywhere between 30 and 40 percent, some in excess
of 40 percent. I had a chance to talk with many of these



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5 constituents, obviously, during the campaign, and one of the
things that struck me was the number of them who have lived
10 in those buildings since they were built. There is a significant
portion of senior citizens in there who moved in to
those buildings which, by the way, were the first high rise
buildings built in Toronto, the first high rise apartment
15 buildings, and they have lived there since they were built.
Their incomes have not gone up at the rate of inflation. In
fact inflation has virtually ravaged their living situation
and if it weren't for the fact that their accommodation has
been reasonably priced, they would be in a desperate situation.

20 If we don't enact legislation that will protect
these tenants many of them are going to be on the street
desperate to find some housing and I suggest that some of you
might -- I am sure you have heard from these tenants, but
25 you will do well to discuss their situation with them. I
will tell you what they resent the most.

30 What they resent is the fact that since they
moved into the building they have in a sense purchased the
building for the owner, the previous owner. They paid the
mortgage off; they paid the interest, the taxes, everything
else through their rent. If they happened to have been home
owners, if they had chosen that option, they would have owned
their residence free and clear, but because of the sale of
the building, they have to buy the building now again for a

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new owner. Nothing has been done to the building; there has been no improvement whatsoever - not that it has been badly maintained; it has been well maintained, but there has been no dramatic change in the status of that building as a physical structure or as a place to live except that the owner has changed. And this is going to produce for those tenants a situation where they are going to have to leave and find alternative accommodation.

I picked that one example because its an example where if we had set a date other than October 31, 1982, if we had set a date earlier, perhaps June 10, 1982, these tenants would have been protected by the legislation. I don't think that we should advocate a date or a condition that protects one group of tenants and not another and that is why I am supporting the campaign to institute a five percent limit increase on rents during the restraint period that has just been enacted by the provincial government.

There is a precedent for this kind of thing drawn from an area in municipal politics. Some of you may remember the perhaps infamous or famous 45 foot height by-law which David Crombie introduced in 1972, and I think the concept of his 45 foot by-law parallels exactly what we are looking for in the five percent rent freeze, and the concept was this: we have a problem with our existing legislation. In his case it was the downtown plan for Toronto; in your case it is the rent



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review legislation.

5 David Crombie said, "What we have to do is
totally revamp our downtown plan and to do that we have to
stop major changes in the downtown during the period that we
review the plan and come up with something better." And I
10 think this is the situation we are faced with with the rent
review legislation. We have discovered and you have dis-
covered that landlords have found ways of getting around the
rent review legislation. Nobody anticipated that with a rent
15 ceiling of six percent as provided for in the current legis-
lation that we would be looking at 30 and 40 percent rent
increases, and further, that these would actually be approved
by the Commission; but that's what happened so I think what
we need to do is take a look at the legislation - it will
20 probably take nine or ten months to look at it and come up
with a rent review system that will protect tenants.

25 In that period of time what we have to do is
put a ceiling of five percent on rents and in that way the
tenants can be protected in the interim. I submit to you that
the landlords will not be -- it may not be comfortable for
some landlords, I grant you that but on the other hand, if we
can come out at the end of the day with a system that is fair
then I think that that will have been worth the cost of the
30 ten month freeze.

That in essence is my submission to the Committee

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and I hope that you will see fit to adopt this strategy and then we can undertake the serious job of dissecting that rent review legislation and coming up with a fair system of rent control.

Thank you very much.

Mr. Philip?

Mr. Philip: Alderman Layton, what you in fact are asking for is a five percent freeze but only for a short period of time until the government can so to speak get its act together and correct some of the other problems that you have been discussing; is that correct?

Alderman Layton: That's the concept because I think that the Cadillac Fairview sale dramatized one of the problems with the current legislation. Your Committee has no doubt heard of other problems and in my view the way to tackle those problems is to put a limit on the rent increases for the moment, examine those problems quickly, come up with new legislation and then we can lift that freeze and bring in a new rent review system.

Mr. Philip: So what you are saying is, similar to what the Minister has been saying, that this is an interim bill and that you see no reason why it should not apply to all tenants rather than just the few that are covered by this particular bill?

Alderman Layton: That's correct, and I think the



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tenants, both those who are protected under the current bill and those who are not, are going to be very resentful that legislation was brought in that affects only one group, and I would give credit to the Cadillac Fairview tenants who are not sort of breathing a sigh of relief and going back home and saying, 'well we have been protected so that's fine by us.' These tenants are saying it is not fair that we be protected and others not be and I think it is to their credit.

Mr. Philip: Well, as you probably know, we in the NDP will be moving an amendment to have the five percent freeze as you have requested.

On the matter of disclosure, Alderman Foster, who was before us this afternoon, seemed to imply, and I didn't get an opportunity to ask him a question, that somehow offshore landlords pose a worse problem than local landlords, and as someone who has represented tenants before various Rent Review Boards, would you say that the problem of offshore landlords is one and that there is a need in this bill for some disclosure so that a tenant has a right to know who he in fact is doing business with?

Alderman Layton: I think this is a problem for tenants. For example, the City Park example that I mentioned before, created a tremendous amount of uncertainty because here was a group of tenants that had been informed that their new landlord was a numbered corporation and a management company



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had been assigned the responsibility to collect their cheques and manage the building. They were puzzled by this; they tried to find out information about this numbered corporation and they could find out very little.

This creates an environment of a great deal of insecurity and I think it would be important for the Committee to develop ways in which tenants could be informed about who their landlord is. When we are in the workplace we want to know who our employer is because if our rights are ever jeopardized in any way we can approach the employer and say we need to redress this situation. With tenants and numbered corporations it is extremely difficult.

Mr. Philip: So you would disagree with the Premier's statement that tenants don't care who own the buildings but only the amount of rent increases that they are paying?

Alderman Layton: Yes, that was my experience during the campaign.

Mr. Philip: Has it been your experience that there are a number of illegal rent increases, or the Federation said -- what was their figure, 75,000 illegal rent increases in Metro. Have you run into this?

Alderman Layton: Well, I can only speak from the personal cases that I have run into. The Federation has compiled some estimates on this but the experiences that I had



5 in talking with tenants certainly indicate that this happens frequently. You are familiar with the scenario - a tenant moves out, a new tenant moves in and they discover after talking to their neighbours that the rent was substantially raised in that interim period. They are unable to find the previous tenant and consequently they have no recourse.

10 This does seem to happen with a certain degree of frequency and it is not surprising that the landlords are inclined to follow this kind of a strategy. It is one way in which you can in a sense, skirt around the provisions of the rent review legislation and escape review.

15 There are some other ways, by the way, which have been adopted. One that we have experienced in downtown is the conversion of apartment buildings into hotels, at least so-called hotels where the units are advertised as being hotel units. Tenants are evicted for one reason or another; in some cases harassed in order to generate an eviction and I have had several calls about this in a particular building in my ward and at this point about 85 percent of this particular building has been converted into a hotel.

20 Interestingly enough, the city's Property and Buildings and Zoning Departments have looked at it and they say no, it is not a hotel but the landlord is claiming it is a hotel and so we have a situation where another route has been found to escape the provisions of rent review.



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Mr. Chairman: Alderman, I am sorry I have to interrupt you. We are over out 15 minute; in fact it is 16 so I thank you for your presentation, and I am sorry again, gentlemen, Messrs. Epp and Swart, I have to cut it off.

May we have the next group, the 7:45 group, Dale Martin of the Federation of Metro Tenants' Association, if he is here.

Fine, thank you. Would you carry on, please.

Mr. Martin: Thank you, Mr. Minister. There is a brief -- I hope this doesn't cut into my time -- that we made available to the Committee and appended to it is our brief presented to this Committee sitting before bill 179 about seven weeks ago.

I would like to begin by indicating how displeased the Federation and I think tenants in Metro and across Ontario are about the cynical way that the government has dealt with this bill in its driving the bill through a Committee process in a few hours leaving at last count something like 32 tenant associations who wanted to speak to the bill, unable to do that, and I should say that had we had more than a few hours notice in getting people to call to get on the agenda, we would have had many, many, many, many more tenants appearing before this Committee.

It seems to us that a piece of legislation as important to the majority of the citizens and residents of

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metropolitan Toronto deserve substantially discussion and deliberation than has been given to it. The first point that I should make is that it has taken a month for the bill to get to second reading and there is no excuse for that. We could very easily had hearings conducted in a calm and extended manner much earlier in the fall than we are facing now and I would ask that this Committee extend its hearing time to allow other tenant associations to appear. I don't think that Section 2 (b) (i) is an excuse to continue to try to ram this bill through the House.

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I will try to abbreviate my remarks but the first section I will read out.

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The Federation of Metro Tenants' Associations last appeared before the Standing Committee on the Administration of Justice just seven weeks ago. At that time, we argued that rents must be included in any restraint program planned by the provincial government because there was already a crisis in the residential rental sector. Plans to restrict wage increases in the province without an equivalent control of rents would have disastrous consequences for tenants. Generally speaking we said then, and continue to contend, that a comprehensive five percent limit on all rent increases is necessary to give tenants the security they need and want. Only then, under such a protective umbrella, can the rent review system be overhauled to restore tenant confidence in the system

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by maintaining the existing stock at present levels of affordability.

Since the end of October, Bill 179 has passed into law with the certainty that tenants as a group will experience a dramatic decline in their standard of living as wages are controlled while rents, as yet, are not. At the same time, the government has come forward with a number of initiatives dealing with rents including Bill 198 currently before this Committee. Despite these initiatives, the picture for most tenants remains as bleak as it was in late October.

I will not go through the paragraphs drawn from our previous brief but our argument generally is that the same situation continues.

It is, we believe, significant that the government seems to agree with the Federation's assessment of the situation facing tenants. This is the only explanation for the steps taken by the Minister on November 16th. What remains a mystery is why, if the problems with rent review and maintaining the supply of affordable rental accommodation are so serious as to warrant a Public Inquiry, the government's response to the immediate problem is so inadequate?

PROBLEMS WITH BILL 198

It is precisely the limited scope of Bill 198 in the face of the demonstrated need for immediate, comprehensive protection that is at issue here.

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5 The first problem with the bill is the fact that
it only addresses one component of the high rent formula,
namely the consequence of a building sale. While granting
that this is often the most significant item, the five percent
plus approach will mean that average increases greater than
10 ten percent will remain routine. Major renovations and
spending on cosmetic changes in the building, both responsible
for removing affordable rental stock from the market; and
"creative financing" through which landlords try to circumvent
the rent review process by exploiting loopholes in the legis-
15 lation will to plague tenants with increases as large
as before.

 Aside from the fact that the Bill does not bring
rent increases down to manageable levels for most tenants, the
20 other major weakness of the bill is the limited number of
tenants affected by its terms. The overwhelming majority of
tenants will simply not be helped by this Bill.

 We then go through all of the tenants that will
not be affected. In the first case, tenants with large
25 increases for reasons other than building sale, already
mentioned.

 Secondly, tenants with large increases due to
resale but outside the Bill's scope; basically people that
30 fall outside of the October 31st date and Section 2 (b) (i)
and (ii). We point out that although some of these tenants



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will benefit next year on the second or third year of a pass-through, they will be paying a much higher rent during the restraint program than they would have if the Bill were retroactive of fully retroactive.

Two groups of tenants that continue to be in serious difficulty are then mentioned, one, tenants living in units not covered by rent review. These are tenants living in units that were built after 1975, more and more of whom are call in to our office and indicating that they simply cant cope with the rent increases they are facing, and those living in units with rents greater than \$750 a month. They are both ignored by this bill.

Rents in post-1975 buildings are now 40 percent higher than those in buildings under review while rent review itself is being undermined as more and more units pass through a hopelessly out-of-date upper limit; that is, the \$750 limit. Then, tenants living in units whose rents are increased illegally, and again our estimate is in the 70,000 to 75,000 range of units that have their rents increased illegally each year primarily when units change hands. Failure to incorporate here, as we point out, a rent registry into Bill 198 will mean an ongoing loss of affordable housing stock through the illegal activities of many landlords.

So those are tenants that are not affected by the scope of the bill. This is aside from the fact that the five



percent is a five percent plus.

A Range of Solutions

5 It seems to us that you have a series of options in the way of amendments that are possible to make this bill more comprehensive. Starting with the very least, we refer to section 2 of the bill and point out the idiosyncracies of 10 Part 2 (b) (i and (ii)), which I will entertain questions about, must be struck by eliminating parts (a) and (b) and changing Part 2 to read:

15 "This Act applies to any application where the final order by the Commission pursuant to the application has not been issued before October 31."

20 But a much more equitable approach from our point of view, and therefore desirable, would be to reduce the portion of a rent increase due to financial loss to a maximum of five percent on October 31st for all rent increases effective November 30th, 1981. What we mean by that is, go 25 back eleven months and everytime when October 31 arrives, that portion assignable to financial loss should be clicked down to the five percent limit. That would just involve re-issuing orders on all of those properties.

30 The Bill should be further amended to broaden its scope by suspending Section 134 (c) (d) and (e) of the Residential Tenancies Act and those are the sections dealing with the \$750 limit and the post-1975 construction. That seems



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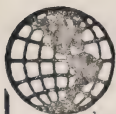
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to us fundamentally important given the experience of tenants in those units.

(D) The Bill should be further amended to immediately institute a rent registry, a point that we have made several times to the Minister and continue to make. There is no need to send the issue of the registry to the Thom enquiry. It is something that the government could act on immediately by incorporating it into Part 4 of the Landlord and Tenant Act and apparently had intended to do so when the Residential Tenancies Act was brought forward; they should act upon that immediately.

Finally, and returning to our original point, notwithstanding the above, the Bill should be amended to limit all rent increases in residential rental accommodation to a maximum of five percent as of October 31st, until such time as the legislature adopts changes to the Residential Tenancies Act that will serve to maintain the existing supply of affordable rental accommodation. As I point out, the arguments are well known and we have attached a copy of our brief to the Committee on Bill 179.

And finally we argue that in order to make this approach, initiated in some respects by the bill more all embracing, we have to deal with the basic issue of demolitions. Over the next year tenants in buildings threatened with demolition must live with the security that can be provided



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by a bill similar to P.R. 13 but available to all municipalities.

So there are our remarks. I can only say that the main and critical remark, one that has been made over and over again by tenants appearing before this Committee and by the Opposition parties, is that the only real solution to the problem faced by tenants is a five percent limit on rent increases until such time as the government comes forward with effective legislation.

Mr. Chairman: Fine. Thank you.

Mr. Epp, perhaps you could get the microphone behind you; this one won't reach quite that far.

Mr. Epp: Thanks very much Mr. Chairman.

Mr. Martin, I was just wondering whether you could comment on the public enquiry aspect - you alluded to it earlier - and what would the tenants expect that they could gain with a public enquiry that they won't be able to gain with the Morrison enquiry of Judge Thom's enquiry?

Mr. Martin: You mean the public enquiry into the Cadillac sale?

Mr. Epp: Yes.

Mr. Martin: Okay. The Thom enquiry is presumably a public enquiry. We again have been calling for a public enquiry into the Cadillac sale because we don't think that the enquiry that currently is looking into financing



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is going to come to the root cause and the bottom of the problem of the Cadillac sale. We think it essentially is not a unique sale. It is probably representative of many transactions that go on and we think it is important that a full public enquiry be held to both discover who the real owners are of the Cadillac properties and the finagling that went on that made them real owners and to have out of that experience come legislation that will adequately protect tenants in similar situations. So we don't think there is any question that the key thing is a public enquiry.

Mr. Epp: Now, with respect to demolition control, as you know this was P.R. 13 and that bill was introduced into the legislature earlier for discussions before a committee and it hasn't been called. You don't see any problem with incorporating that in this particular bill, do you?

Mr. Martin: No. In fact originally we didn't think that P.R. 13 should be restricted simply to the City of Toronto. North York, for example, is another area of a critical demolition problem. It should have been made available to any municipality and in that way tenants in those municipalities could have gotten their municipal governments to enact P.R. 13. But right now it is restricted to the City of Toronto and it is unclear as to whether it will ever come forward.

Mr. Epp: In one of the Sections in the bill



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5 Mr. Martin, it refers to the increase -- when we are talking
about equalization, it refers to an increase based on average,
on a percentage. It has been proposed that this increase be
a dollar increase rather than a percentage increase, because
10 in actual fact if you go through the dollar increase you get
an equal amount increase whereas if you go percentage in fact
you are going further away from equalization. I think every-
body agrees that equalization in the long run is a very accept-
able principle. Now what't your comment and the Metro Tenants'
on this particular aspect?

15 Mr. Martin: Well, we will be making a full
submission to the Thom enquiry on this but our general position
is that we should be equalizing rents, yes, but we should be
equalizing them down to the lowest rent of like unit and then
20 placing the obligation on the landlord to demonstrate why it
should be higher. Because the first question that has to be
asked about equalization is, why are rents unequal? And if
they are unequal because of illegal activity of the landlord,
for example, or because tenants during the first years of rent
25 review, some tenants protected their interests and others
didn't, it doesn't seem to me now that the government should
be penalizing those tenants by equalizing up. So our view
generally is that you should equalize down and then place it
30 on the landlord to demonstrate why it shouldn't be left down.

Mr. Epp: Is it your experience then that



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invariably the equalization goes up rather than down?

Mr. Martin: Oh yes.

Mr. Epp: Have you ever seen it go down?

Mr. Martin: No, I have never seen it go down.

Mr. Epp. No. I don't think it is even
allowed under the legislation, as far as I know.

Thanks very much.

Mr. Chairman: Mr. Philip.

Mr. Philip: Thank you Mr. Chairman.

You suggested that demolition control should be
in the hands of each municipality and you mentioned that P.R. 13
was one bill. I introduced a similar bill to P.R. 13 but that
would give other municipalities power under the Planning Act.
Do you feel that this is the right Act to amend to deal with
that or should it be a new Act amending the Planning Act as
I have suggested?

Mr. Martin: I would like to be able to comment
but I can't. I know that whatever the appropriate mechanism,
the object of the exercise should be to make available to
municipal authorities demolition control that will incorporate
the whole issue of affordable housing into that bill.

Mr. Philip: And on the issue of disclosure,
do you agree with some of the other speakers that offshore
ownership of rental accommodation seems to pose more problems
than inshore ownership, or does it really matter?



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Mr. Martin: Again, I really have to look -- given that we don't know who owns a lot of the properties, then it is difficult to comment on the impact of offshore versus onshore ownership. The only solution as far as I am concerned is openness, the disclosure of landlords. In most cases I would think that FIRA should be probably active in preventing offshore ownership because of the whole question of net benefit to the Canadian public.

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As I think we have remarked before, the only consequence of purchase by one landlord from another is inflationary and it is particularly true in the case of offshore.

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Mr. Philip: You and I both know that is not likely to happen. The Federal Government has declared that it is weakening it and the official Opposition in Ottawa is calling for even more weakening of FIRA.

Mr. Martin: Yes.

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Mr. Philip: And therefore you would suggest then that if there could be an amendment to this Act to require disclosure, at least for buildings going before rent review, that that would be at least one step in the right direction?

Mr. Martin: Yes.

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Mr. Philip: Section 7 is the deletion section or the self destruct section. We will be moving that that be struck out until such time as we and the tenant groups have had



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an opportunity to see the new proposed legislation. Would you agree with that?

Mr. Martin: Yes. Page 5, Item E I think, embraces that idea.

Mr. Philip: And one last question. Have you had an opportunity to look at the proposed amendments that we in the NDP are going to ask this Committee to accept, and are you in favour of them or are there any comments that you have to make on those amendments?

Mr. Martin: I haven't looked at them in detail but I can say that the short look that I have at them indicates that they are acceptable. I think the one date change would be November the 16th; we would prefer that it be moved back to October 31.

Mr. Chairman: Thank you. I have to interject at this point. I am sorry, Mr. Swart, I will put you up first on the next one if you wish.

Thank you very much for your presentation.

Mr. Martin: I would like to say on behalf of the tenants who are unable to be here tonight, that we have an indication of the support for the five percent limit. We just sort of collected the ones that are around our office.
--- Applause

Mr. Chairman: Thank you very much.

Perhaps the Dundas/Beverley Tenants' Association,



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5 Kay Parson and Sean Goetz-Gadon would come forward as well,
please. Are those people here? Oh yes, they are. Would
you please come to the microphone. Thank you.

Who will be the spokesman?

10 Ms. Parson: Well I was going to say a little
bit and then Sean was going to take over.

15 Mr. Chairman: Thank you. You know that we have
a 15 minute time limit.

Ms. Parson: Yes.

Mr. Chairman: Fine. Go ahead.

20 Do you have a written presentation?

Ms. Parson: I will pass it in after.

Mr. Chairman: All right; fine. Thank you.

Go ahead.

25 Ms. Parson: The purpose of the bill is to ease
the burden of very large rent increases which result from the
sale and resale of buildings being passed on to tenants. This
is from Dundas/Beverley. We would like to commend Dr. Elgie
and his staff for bringing this bill forward as a step in the
right direction. We also think that the bill does not go far
enough as many buildings in Metro have gone through sales and
resales, of course, with tenants paying the increases in their
rents.

30 While it may be next to impossible to find out
how many sales and resales have happened over the last few

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years, we think somebody should try and include these tenants also in Bill 198 and allow them to get rent reductions. We would like to make the following recommendations to amend Bill 198:

1. All applications that have not been heard before the Residential Tenancies Commission be included in Bill 198; and
2. All known applications for the past few years in similar situations, those tenants affected should receive reduced rents.

Mr. Chairman: Thank you. And for the Members of the Committee, the Exhibit here is Exhibit 8, if you want to mark it as such. Thank you.

Mr. Goetz-Gadon: In addition to the presentation by the Dundas/Beverley Tenants' Association, Metro Tenants' Legal Services has a number of points I would like to bring to the attention of the Committee.

I guess initially what we would like to suggest is we hope that this Committee will give more serious attention to Mr. Thom's recommendations than it appears to be giving to Bill 198.

First and foremost we recommend that the government introduce a five percent ceiling on all rent increases.

During the past year a record number of landlords have applied for rent increases in excess of the six percent guideline. The



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result has been a phenomenal jump in the number of tenants who are forced to move because of affordability problems. Many tenants who remain often fall further into debt as their rents spiral out of control. Over a two year period it is not uncommon to see rents in some buildings by 60 or 70 percent.

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The many cases of hardship demonstrate the seriousness of the present crisis and it suggests a program putting a lid on increases is the kind of protection a large sector of tenants are beginning to demand as the relief they require.

15
In the absence of such a program we would like to recommend some fundamental changes to Bill 198. Bill 198 may be a step in the right direction but for many tenants it comes too late. In our office alone we represent over 2500
20 tenants who are left out in the cold as a result of the fact that the bill does not apply to applications made prior to October 31 1982.

25
We suggest that it is prejudicial to have the Residential Tenancies Commission apply two separate laws to applications which are currently before it. Section 2 of the bill should be amended to reflect this fact and the bill should apply to applications and appeals for which orders have not yet been issued.

30
For many tenants Bill 198 is not broad enough. The bill fails to restrict rent increases due to all



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refinancing. The government has failed to recognise that in many cases refinancing due to changes in interest rates can result in rent increases higher than those increases due to sales. This oversight fails to deal with the major shortfall in the current legislation and ignores the fact that many landlords who refinance have their own capital available to offset the higher rates.

We therefore recommend an end to 30 and 40 percent rent hikes due to refinancing and suggest that Section 2 of the bill apply to all financing irrespective of sales.

The bill should also not ignore the desperate need for a rent registry. With a tighter rent review program it is certain that landlords will be attempting to operate outside the statute. The problem of illegal rents has undermined the very intent of rent review from day one and has existed far too long.

Another shortfall of the bill is a section requiring all corporate applicants to disclose information respecting beneficial ownership. In a recent case argued by our staff the landlord of a property at 40 Earl Street was disallowed part of a rent increase since he refused to make such disclosure. Despite his arrogance in not making that disclosure he was still awarded a 23 percent rent increase.

It is our position that disclosure of ownership should be a mandatory requirement and a failure to disclose



should result in the dismissal of the application.

5 Lastly, we should like to address the question of
giving retrospective effect to the statute. The Urban
Development Institute earlier today was arguing against that
point. We would put forward the argument that common law
10 recognises the authority of the legislature to provide for
retrospective effect in legislation. Examples of such use of
power can be found in the Residential Premises Rent Review Act
which was enacted in 1975 and had a retrospective effect; and
15 more recently the current Public Sector Wage Restraint Bill
is a retrospective bill. For these reasons we think Bill 198
should remain retrospective.

20 Lastly, we will be proving the public enquiry
that Mr. Thom is conducting with a more detailed long term
proposal at a later date, but we submit the current recommenda-
tions are too urgent to postpone. The crisis in affordable
housing is well upon the tenants of this province and the
25 solution can no longer be delayed.

Thank you.

Mr. Chairman: Thank you.

Mr. Swart.

Mr. Swart: Thank you, Mr. Chairman.

30 You would have heard my colleague, Mr. Philip,
outline the five amendments which we are going to propose to
this bill, the broadening of it to apply to all increases,



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the financing, the five percent limitation, the requirement for disclosure and the provision that if there is not a disclosure of the real beneficiaries that there will be no increase at all given; and the change that the bill will not self destruct at the end of 1983, and the registration. And it is with regard to the latter that I would ask you a question on your item 4.

As a person who has handled a number of cases before the Rent Review Commission, I am aware of almost the meaningless of decisions when they broken immediately afterwards and illegal rents applied. The last two I handles, one in Thorold, out of 66 apartments 25 of them had illegal rent increases and in an apartment well over 104 there were some 38 who had had an illegal rent increase.

You propose a registry here which we support and for which we will be moving an amendment but I would presume that you would also want to provide a penalty to landlords who break the law, and they have been breaking it indiscriminately now for seven years. Have you any comments to make on that?

Mr. Goetz-Gadon: I would agree that certainly the penalty clauses which currently exist in the legislation should be enforced. To date they haven't. It seems like the mechanism is there.

Mr. Swart: What mechanism are you speaking of?



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Mr. Goetz-Gadon: Pardon me?

Mr. Swart: What mechanism are you speaking of that is there at the present time that is satisfactory?

Mr. Goetz-Gadon: The present Residential Tenancy Act, I believe it is Section 123, does provide for certain fines where the landlord does not abide by the legislation.

Mr. Swart: Not to this particular section, I believe.

Mr. Chairman: There being no other questions, thank you very much.

Mr. Goetz-Gadon: Thank you.

Mr. Chairman: The next group, the Jane/Finch Tenants' Association, Mr. Van Newell. Is that person here?

Do you have a written brief with you?

Mr. Newell: Yes, I do. I will let you have it when I am finished.

Mr. Chairman: You just have one copy, is that it?

Mr. Newell: Yes, I only have one copy.

Mr. Chairman: After you read it could you perhaps give it to the Clerk and we can photocopy it and distribute it later tonight among the Committee members.

Would you identify the people with you by name for the Reporter.

Mr. Newell: This is Finn Schultz-Lorentzen and this is Michael Blazer.

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Mr. Chairman: Fine. Carry on, thank you.

Mr. Newell: I will just start in reading.

It is unfortunate that tenants were not given earlier notice that this Committee would be hearing presentations on Bill 198. Unfortunately this reveals the problem of how tenants are often dealt with in Canadian Society; that they are somehow somebody's private property and that any decisions affecting them can be made without their direct participation.

If there had been more warning I am sure the Committee would have seen how inadequate only one day's hearings are. What the Committee has been hearing so far has come mostly from the growing number of Tenants' Associations which are basically non-professional groups often desperately formed to act as spokespersons for a very large number of hurt and angry people. But what the Committee must understand is that most tenants do not have the necessary time nor feel that they have the ability to organize sufficient opposition to what amounts to economic oppression by their landlords.

If individual tenants from across the province were given the opportunity to state the facts and express their opinions, the Committee might see the need for immediate and effective intervention.

The Jane Finch Tenants' Council is an umbrella group composed of Tenants' Associations in North West Metro



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5 Toronto. Tenants' Associations are not formed as social clubs, they are formed as a response to urgent problems. Most of the Council's Member Associations organized as a response to huge rent increases and the inadequate level of building services and maintenance they are forced to accept along with them.

10 Our membership includes the following:

2990 Keele Street, which has received this year notice of a rent increase of 29 percent; 3400 Weston Road, which received notice of rent increase of between 22 percent and 42 percent; 2600 Jane Street, which has received notice of rent increases of between 23 percent and 48 percent; 2755 Jane Street, which received notice of rent increases of between 29 percent and 61 percent; University City, which has received notice of rent increases of 13 percent.

20 235 Grandravine received an increase of 22 percent already this year; 2850 Jane Street received an increase of 22 percent; 2770 Jane Street received an increase of 20.1 percent and 2801 Jane Street received an increase of 22 percent.

25 University City Apartments were, until this fall, Cadillac Fairview holdings. Most of our Member Associations have found refinancing costs to be the major contributor to these unrealistic rent increases. Bill 198, or the "Cadillac Fairview Bill", as reflected in the large differences between University City's rent increases and those of her sister associations in the Council, indicates that the Ontario



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Legislature does possess the ability to control the extravagant demands of landlords' large profit schemes.

However, until the Thom Commission can comment upon the whole system, which we can expect no earlier than one year hence, tenants can only hope that their particular case can somehow be fitted into the narrow guidelines of Bill 198, or despair if it cannot. We hope that this Committee can appreciate the hardship of tenants who have to pay their landlords' mortgages which are readily available with only 15 percent equity.

The bill proposes to extend the landlord's break-event point from three to five years. This does not involve a commitment for the landlord, this is still a quick money scheme. Perhaps a longer, more suitable "break even point" would tenants to feel easier about financing landlords' profit ventures and ensure a commitment from the landlord that he may have some responsibility to the people who live in his building.

In the meantime something must be done. Rents are becoming much too high for the "goods received" by tenants. In many cases, and especially many buildings within the Jane Finch Tenants' Council rents have become too high to afford. I would like to share with the Committee the despair a tenant feels when his paycheck no longer provides his family with adequate food, clothing and the most basic of shelter. With vacancy levels in Metro at such a low level there is rarely any



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alternative but to stay and eat less.

Exorbitant rent increases are deeply injurious to many members of the Jane Finch Tenants' Council but we realize that it may take a while before their devastating effects become apparent to the Ontario Government. Since our government has found that the solution to the province's economic crisis is a freeze on wages to five percent, it makes sense to us to adjust rent increases by the same factor.

By this freeze many tenants could at least maintain a similar standard of living to that of last year without sinking even further. The freeze should apply to all buildings and not be restricted to refinancing costs. The government has recognised that a problem exists, it must act quickly to ensure that 'tenancy' in the 1980's does not re-assume the negative connotations built around it in medieval times.

Thank you. That's all.

Mr. Chairman: Thank you.

Mr. Epp.

Mr. Epp: Thank you, Mr. Chairman.

Mr. Newell, you were speaking about a number of rent increases, 20, 30 percent and so forth. Have you got a breakdown as to the average increase for financing in those and the average increase for maintenance and so forth?

Mr. Newell: I don't have it with me. I could supply it.



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Mr. Epp: Would you?

Mr. Newell: Yes.

Mr. Epp: It might be helpful in the future.

Obviously it is not going to help us today in the clause by clause study but it will be helpful in the future.

Mr. Newell: They are mostly the substantial part of the increase, especially in the case of my own apartment building which was by far the largest increase and the only one at that time which we couldn't argue.

Mr. Epp: That the financing is the greater proportion of it?

Mr. Newell: Yes.

Mr. Epp: What about the illegal increases; what's your experience with those; are they in any particular sector? Do you find that they are related to any particular kind of unit, the highrise or the walkups or is there any study on that where people try to have an illegal increase, or is it right across the board?

Mr. Newell: Well, our Council is composed of both small apartment buildings and large highrises and so far there hasn't been any pattern developing. I think illegal increases apply in both situations.

Mr. Epp: You find that they are fairly prominent or not so prominent based on your study?

Mr. Newell: I found that it is certainly common;



5 it was common in our apartment, our particular apartment that
increases, not necessarily based on the refinancing but there
was padding involved. At particular rent review hearings I
10 know that sufficient documentation isn't provided and unfor-
tunately the landlord seems to get what he has asked for. When
the point was taken at my particular rent review hearing that
enough documentation wasn't provided, there was no response
from either the Commissioner or from the landlord's represen-
tatives.

Mr. Epp: Okay.

15 Mr. Chairman: Thank you.

Mr. Swart.

Mr. Swart: Thank you, Mr. Chairman.

20 I would like to pursue a little bit more on this
information with regard to the increases in rents that you
mentioned there. Perhaps it is not a fair question because
you have only had a day to prepare this. But, first of all, I
presume from what you say that those increases you are talking
25 about, 20 percent and in that neighbourhood, are due to a very
large extent to refinancing. Secondly, have you any idea how
many of those apartments where you represent the tenants would
be outside of the provisions of this Act, already have had
applications in by October the first?

30 Mr. Newell: Unfortunately, most of them are
outside. There is only one that is inside so far and that was



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the Cadillac Fairview holding of two months previous.

5 Mr. Swart: So in fact the great majority of
the tenants will receive no benefit from this Act at all?

Mr. Newell: Unfortunately, unless it can be
changed or modified.

10 Mr. Swart: We are going to try to do that
and I am just trying to get an idea because I asked that
question previously and certainly there is a clear indication
particularly because of the tremendous backlog of hearings
15 that are before the Commission, that there is going to be a
tremendous number, perhaps even a majority of tenants who are
going to receive no benefit whatsoever from this bill if it
goes through in its present shape and when it self destructs
at the end of 1983.

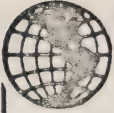
20 Mr. Chairman: Fine. Thank you very much for
your presentation.

 Shall we go on to the next group, the Grandview
Association of Tenants and Helen Kennedy.

25 Mr. Schultz-Lorentzen: I am instead of
Mrs. Kennedy. My name is Finn Schultz-Lorentzen and my remarks
will probably echo those of Mr. Newell. Since between us we
have 15 minutes each, if time permits --

30 Mr. Chairman: No, you have 15 minutes for the
entire presentation from the Jane --

Mr. Schultz-Lorentzen: Oh, both of us.



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5 Mr. Chairman: From the Jane Finch Tenants' Association you have 15 minutes.

Mr. Schultz-Lorentzen: Okay. I am from the Grandview Association of Tenants.

Mr. Chairman: Oh, I am sorry; you are going ahead. I am sorry, I didn't catch your name.

10 Mr. Schultz-Lorentzen: Instead of Helen Kennedy. My name is Finn Schultz-Lorentzen.

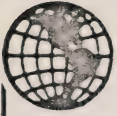
Mr. Chairman: Fine, thank you.

Mr. Schultz-Lorentzen: And what I started to say was that if time permits I would like to give some of the time to Mr. Blazer of the Tenants' Hotline; but I will read through.

15 The exceedingly short notice we have received of the time and place of this hearing of necessity has rendered our brief incomplete and consequently less substantial than we might have desired.

20 But we do wish to take this opportunity, such as it is, to direct the Committee's attention to a number of changes which we should like to see accomplished. These changes appear to have been inadequately considered - if at all - by Dr. Robert Elgie, the Minister of Consumer and Commercial Relations, in his statement to the legislature of November 16, 1982.

25 1. Waiting to close the stable door until but one horse



remains, bespeaks the value of that one horse - Cadillac Fairview. It does not bespeak the merits of all the other horses, or their just claim upon equal, if belated, attention and care. At this time they are milling around untended, doubly the victims - first of exploitation, then of neglect.

* We of the Grandview Association of Tenants believe that immediately effective, any apartment building which has been sold two or more times within the past three years, shall qualify for the same five percent freeze on refinancing costs granted the former Cadillac Fairview tenants, notwithstanding the date of the latest rent review hearing in each case.

2. We believe that a general five percent freeze must be ultimately extended to all residential buildings. Such a move would reflect not only our present economic situation but the spirit of the freeze imposed by the provincial government upon the populace in general.

There are only six points you know.

3. We believe that the recent, and temporary, extension of the 'break-even' point enjoyed by new landlords (from three to five years) is hopelessly inadequate. We strongly recommend that the 'break-even' period be extended another five years - to ten years.



4. No attempt has been made to raise the minimum equity required by the Residential Tenancy Commission for the purpose, by landlords, of recovering their financing and other costs. The present 15 percent minimum equity does not translate into any evident recognition of apartments serving any other role than that of a general commodity of limited shelf-life. Yet apartments are first and foremost, homes.

* We believe that the present low 15 percent equity requirement should be raised to the far more reasonable level of 25 percent.

5. We believe that a company which lists itself by number, refuses to disclose name of owner or owners, or the names of its members of the Board, or anyone else either already involved in, or wishing to become involved in, the ownership and/or administration of a residential building or complex, should be denied the right of ownership and/or administration of such a building or complex.

6. Finally, we commend for the Committee's perusal and consideration the attached Petition, dated September 15th, 1982, receipt of which was acknowledged by Dr. Elgie as recently as November 25th, 1982.

You will find the Petition, which I have here, self-explanatory. To summarize, it takes cognizance of the



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dramatic changes which have taken place in the rental market over the past several years. It presumes - and rightly, we think - that the very tight rental situation will remain with us for many, many years to come. It acknowledges that a similar situation has prevailed in Europe for decades, but has there been partially met through proper legislation protecting tenants from exploitation. We believe it the Committee's duty to recommend to the government that it afford Ontario's tenants similar protection.

Mr. Chairman: Fine. Thank you.

Mr. Philip.

Mr. Philip: Thank you Mr. Chairman.

You mentioned numbered companies, has that been a major --

Mr. Schultz-Lorentzen: Pardon me. Will you please repeat that?

Mr. Philip: You mentioned the problem of numbered companies; has that been a major problem in your particular neighbourhood and area? Can you give us an example to make it more concrete for us?

Mr. Schultz-Lorentzen: At the back of the Petition I list an example, my own building 235 Grandravine Drive. This has been sold four times in five years. That is what your are getting at? Mr. Philip, that is what your are asking?



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5 Mr. Philip: Yes. And in each case it has been
a numbered company which has it or --

Mr. Schultz-Lorentzen: Oh, a numbered company?

Mr. Philip: Yes, a numbered company.

10 Mr. Schultz-Lorentzen: We ourselves in our
building, it has not been a numbered company. There have been
names; Deltan, York-Hannover, Shafran and lastly Landstake.

15 Mr. Philip: Is it your feeling that the
inability of tenants to know who the landlord really is poses
not only a monetary problem but also a psychological problem;
that it is hard to deal with somebody you don't know?

Mr. Schultz-Lorentzen: Very much so. Yes, I
would have used the word if you hadn't - psychological warfare
almost, yes.

20 Mr. Philip: You mentioned certain legislation
in Germany, can you --

Mr. Schultz-Lorentzen: No, in Europe.

Mr. Philip: In Europe.

25 Mr. Schultz-Lorentzen: I am from Denmark.

Mr. Philip: Oh, I am sorry. Can you elaborate
a little bit on that comment?

30 Mr. Schultz-Lorentzen: Well, I, or, I should
say we, but since I am sitting here I would say I, used some
examples which is that in the Scandinavian countries you have
the concept of tenancy democracy which takes into account the



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interest tenants have in buildings. It is not a - I was almost tempted to use the word "commune" - It is not that you lessen whatever credence is given the capitalistic system but where you have landlords on the one side, you must also have tenants with an equal input. The example I like to use because that's one that actually happened, is where a landlord would like to fix up the lobby. There is only so much money to fix - everybody realizes that - there is only so much in the kitty. He might prefer to fix up the lobby but tenants who have a dripping roof would say, we would rather priority No. 1 goes to fixing the roof because that's more important.

So the tenancy democracy as it exists in the Scandinavian countries takes into account these priorities; the involvement of the tenants to reduce the incidence of theft, vandalism through their greater involvement.

Mr. Philip: Well, you anticipated my next question which was: has it been your experience in Europe where this in fact does occur, that it is also to some extent to the landlord's advantage because in fact you have less maintenance problems in the building and generally more concern by the tenants and less turnover of tenants?

Mr. Schultz-Lorentzen: You are exactly right. When you used the word "landlord", I thought that in that context it was almost necessary to stress that between landlords and tenants; yes, you are absolutely right, they welcome that



5 where you have speculators, exploiters, the sort of flip over, quick sell artist. No, of course, they are not, because that puts a damper into the works, but respectable, honourable landlords, yes, they are welcome.

10 Mr. Philip: You and your predecessor talked about financing costs and I thought that it would be interesting for the Committee just to confirm what they are saying, is that the Residential Tenancy Commission report to the Minister 1981/82 shows that one in three landlords cited increased financing costs in the application for rent review.

15 Mr. Chairman: Thank you, Mr. Philip.

Mr. Spensieri.

20 Mr. Spensieri: Thank you, Mr. Chairman. I am glad I am not the only guy from the Jane Finch area.

25 I wanted to ask this: both of you mentioned the question of the equity requirements and you seemed to indicate that the 15 percent is inadequate and perhaps we should get landlords to have as much as 20, 25 and some speakers even suggested that there be a 50/50 equity in financing ratio. Are you aware of any other type of business activity that sets these kinds of restrictions on participation, and where do you see this Committee eventually leading to if we are to give credence to this particular representation? And please don't
30 misunderstand, because I sympathize with the particular problem we are facing now especially in our area; but it seems to me



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that if you start talking about a minimum requirement of equity we are getting into some pretty unwholesome theories. How do you feel about that?

Mr. Schultz-Lorentzen: Well, so many thoughts run through my mind that I am trying now to crystalize the one that might be appropriate here. As I mentioned earlier, where you have apartments occupied by people; it is not commodities with a shelf life, it is not something -- well, the word eludes me, but apartments are people's homes. It is something emotional, it is something way, way beyond just some dry goods, and in that context when you take other places should the same happen. No, because you cannot compare apples with pears.

In our case in our building, this was bought two and a half years ago and \$3½ million and then sold a year later for \$5½ million. The landlord made a profit of \$2 million which of the \$3½ million he only had to put in 15 percent. Well, it is almost criminal, to my mind. So in that context that apartments are homes and not just goods to be traded, in that context I think it is justified to up the 15 percent.

Mr. Spensieri: Obviously what you are objecting to is not the fact that someone has the ability to finance 85 percent, what you are really objecting to is the extent to which that gets passed out, but you have no --

Mr. Schultz-Lorentzen: The difference, the



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85 percent gets passed on to the tenants, yes, and the interest rates on top of that, yes.

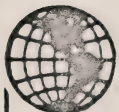
5 Mr. Spensieri: Sure, but you have no actual objection to anyone entering the real estate market if he only happens to have a 15 percent equity? I mean --

10 Mr. Schultz-Lorentzen: Yes, I certainly do. I would like him to have 15 percent equity, and furthermore in this Petition we are asking that a landlord also be shown that he has not at any previous time been found guilty of exploiting tenants by charging too much; that he has not been proven to
15 be a quick sell artist and that this is the seventh building he has owned. I know that you will say there isn't any hope of getting it in. I think it is really immaterial and I personally have no great hope but I think we have to mention it and we
20 have to point out that people, at least from the part of the city where I come from believe in this.

Mr. Spensieri: And just to conclude, Mr. Chairman.

 What do you consider a reasonable period of holding on to a real estate investment? Would you consider
25 say a four year period a flip or would you consider that a normal period of ownership?

Mr. Schultz-Lorentzen: Everything being relative, I would say for the purpose of this argument three years now, but I would like to see it extended to ten years; but since
30 three years is better than we have now, I would say three years.



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that would be adequate; that would be a minimum.

Mr. Chairman: Mr. Swart.

Mr. Swart: Thank you, Mr. Chairman.

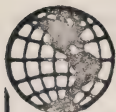
I would just want to pursue that equity a little further. If I hear you correctly, and those who have made submissions previously, your real concern is that you get these constant sales and the tenants keep on indefinitely paying off that capital and that interest, and if I can paraphrase you, what you are saying in effect there should be a system whereby that in fact is not permitted; that building has been three quarters paid off by the tenants, the capital and interest has been three quarters paid off by the tenants, then there ought to be some system which would not provide for the automatic pass through, if that building is sold and you are starting all over again and pay for the same building several times.

Mr. Schultz-Lorentzen: Yes. Yes.

Mr. Swart: And so the 15 percent may in the first instance not be unreasonable but as that building keeps being paid off it does become extremely unreasonable that those tenants should have to start at that level again. Am I right in interpreting that is basically what you are saying?

Mr. Schultz-Lorentzen: Yes, absolutely.

Mr. Swart: The other question I have to ask is the same question I asked Mr. Van Newell. First of all, I



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assume that the Grandview Association of Tenants represents more than one apartment building, it represents a number --

Mr. Schultz-Lorentzen: No, it represents one.

Mr. Swart: It represents one apartment building. Would that building be included within this legislation?

Mr. Schultz-Lorentzen: No.

Mr. Swart: No, it wouldn't.

Mr. Schultz-Lorentzen: We had our hearing in August and this takes effect on October 31st. It has been sold four times in five years just by some arbitrary -- it has no real bearing on the justification or the merits of the case robs us of --

Mr. Swart: So even a hearing next August, of course, if they applied for one, the increase has already been given, or at least it will have been given so it wouldn't affect you. In fact a smart landlord would just take his six percent and run next August, after getting a major increase this year.

Mr. Schultz-Lorentzen: Yes, or delay any hearing, which they can do, since the way the rent review hearings are set up now they don't take place until he has submitted his cost statement. They don't give a date; they wait patiently for the landlord.

Mr. Swart: Hm hnm.



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Mr. Schultz-Lorentzen: Well, if he wants to wait long enough nobody is going to qualify for this. He can dictate his terms in that way by simply holding back his cost statement.

Mr. Chairman: Thank you very much. That's the time, a little more than the time. Thank you very much for your presentation.

Mr. Schultz-Lorentzen: Mr. Blazer has something.

Mr. Chairman: No, I am sorry. We have already passed over that. We have the next group coming on. Thank you very much for your presentation.

Mr. Schultz-Lorentzen: Thank you.

Mr. Blazer: Could I not get someone to copy this then?

Mr. Chairman: Yes, that's fine. The Clerk will get it from you right now. Thank you.

And I understand Mr. Blazer's group gave a written brief around six o'clock over in the Parliament Buildings and that will be photocopied and circulated later tonight.

The next group is from 60 Gloucester Street Tenants Association, John and Angela Goyeau.

Do you have a written brief.

Mrs. Goyeau: I have one copy.

Mr. Chairman: One copy. Fine, thank you. The Clerk will get that. I believe that will be Exhibit 10. Thank



you.

5 Mrs. Goyeau: I am President of the 60 Gloucester
Street Tenants Association.

10 On behalf of the tenants of 60 Gloucester Street,
we would like to thank the members of the Justice Committee
for allowing us to speak briefly today on the subject of Bill
198.

15 We are aware that this bill is being processed
speedily and, in one sense, we are pleased to see that the
government has decided that only rapid and decisive action
will meet the needs and demands of Ontario tenants.

20 We are not pleased, however, to find that the
bill being proposed overlooks us personally, overlooks the
tenants of our building and overlooks the problems of most
tenants in our neighbourhood.

25 We live in a neighbourhood predominantly made up
of tenants and located a very few blocks east of this Legis-
lative building. In our neighbourhood over the past year and
a half, virtually every tenant has been subjected to a dramatic
rent increase....not only because of resale of buildings...but
30 also because of: building refinancing; buildings not covered
by the Residential Tenancies Act; capital expenditures passed
along at very high interest rates; and illegal rent increases
which tenants are unable to discover or prevent.

In the recent municipal election there was a



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candidate for office in our neighbourhood who thought he could win re-election by offering assistance only to a few tenants (specifically those in Cadillac-Fairview buildings) and by neglecting the concerns of the majority of tenants.

He was roundly defeated by the tenant vote because tenants realized that what was fair for one should be fair for all.

Take the example of our own personal rent increase. Our landlord applied early in 1982 for a 20 percent overall increase for our building. Because of his rearrangement of the rent structure in the building, and because of the equalization formula in the Residential Tenancies Act, our personal rent increase was supposed to be 42 percent despite the fact that the overall building increase was to be 20 percent and that, in fact, some apartments were proposed to receive increases below the 6 percent guideline.

You can imagine our enthusiasm for an interim restraint bill that evens out this kind of disparity but which does not apply to us.

This is but one example of the type of rent increases which have occurred across Ontario and which are not being addressed by Bill 198 because of its limited scope and limited application.

We can assure members of the Committee that we will be discussing this issue in our Tenant Association, as will



tenants across Ontario who are being overlooked in the proposed legislation before you today.

Fairness would dictate that a cap on rent increases should be applied to all landlords and tenants, not merely to those involved in resales after a specific date.

Why should the landlord who buys after October 31st be treated differently than one who buys in September? Why should a landlord who buys a new building be treated differently than one who buys a building constructed before 1975?

The government is correct in understanding that tenants need protection from overly large rent increases but unjust in the application of this understanding to all tenants in an even-handed way.

Another issue which has been raised by tenants in our building is the level of rent increases which are being allowed even in Bill 198. Since our building is located near the Legislature, near the downtown hospital district and near the CBC, we find tenants who are government employees continually complaining that their income is being held back much more stringently than the level of their rents.

Under Bill 198, the effective limit being established for those cases in which the bill applies is approximately 11 percent. That is substantially higher than wage and salary increases for tenants in our building and specifically double the amount being allowed to tenants whose income is



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directly controlled by government wage restraints.

Because the interim legislation being proposed today does not apply equally to all landlords and all tenants, and because the level of restraint being applied is clearly higher than the ability of tenants to pay, we would like to suggest to the Committee that they accept the proposals being put forward by a variety of tenant organizations including our Association. This would be a freeze of rents at five percent annual increases regardless of cost pass-through and backdated at least to the first of this year so that the tenants who most need government support will receive it.

While we are speaking to the Committee, we would like to draw the attention of members to two other pressing problems which we feel are of sufficient urgency that they should be addressed in this interim bill.

The first is the question of the rent registry for tenants. This issue has been addressed before at great length and, in fact, has already been passed once by the Legislature, if we are correct.

At present, most if not all of the hearings before the Residential Tenancy Commissioners are resulting in a finding of illegal rent increases if the building is before the Commission several years after an initial application under the previous legislation.

This should not be news to members either since

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tenants have been complaining about this loophole since the initiation of rent review.

At our building hearing in August there was a finding of an illegal rent increase despite the fact that our building has an active Tenant Association and despite the fact that the tenant in question was himself a lawyer. The plain fact is that there is no protection available to tenants from illegal rent increases except the coincidence of subsequent applications before the Residential Tenancies Commission.

The decisions of the Commission listing rents are, in effect, a rent registry and should be considered as such and expanded immediately. I cannot see how further delay and study will be of benefit to tenants paying illegal rent increases.

The second important issue is the right of tenants to know the owners of their buildings. This right goes beyond the application of legislation regarding management fees or resales or refinancing.

Let me give you an example from our building.

Immediately following the founding of our Tenants' Association, we hand delivered to the property manager and mailed by registered mail to the landlord a request to meet and discuss our concerns in a co-operative and friendly fashion.

Our letter was not acknowledged and no reply was sent.



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At the time of our rent review hearing, the supposed landlord for our building declared first, that he was not a beneficial owner of the property and that it was owned by Swiss interests un-named, and secondly, that he did not intend to meet or talk with any tenant or Tenants' Association despite the praise of the government-appointed Commissioner for the excellent work and good manners of the tenant representatives at the hearing.

We would like to talk to the real owners of the building. It would be advantageous for them and for us.

At present, the best advice we have received is to give up because it will likely be impossible to track down the German and Swiss connections behind the ownership of our building.

Surely there is at least one lesson to be learned from the Cadillac saga?

Surely, tenants can be allowed to know the names of the individuals upon whom their security of tenure depends?

We thank you for your time.

Mr. Chairman: Thank you.

Mr. Epp.

Mr. Epp: Thanks very much Mr. Chairman.

You are dealing with the registry there and obviously you are recommending that we have that. Do you see any problem with implementing that immediately?

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Mr. Goyeau: I don't. I am not a lawyer or an expert in terms of drafting legislation but it seems to me that there is already a rudimentary form of registry in that if any building has gone since whole building review or to the original form of Residential Tenancies Commission hearings, then there is in effect the start of a registry there, and in essence there is a form of registry, a registry that is slowly being created already at the Commission. Its on file there and so it seems to me that the simple decision is required just to say that we want that type of information on file for buildings and just simply request it.

Mr. Epp: So that you think that --

Mr. Goyeau: It is and shouldn't be a secret.

20
Mr. Epp: -- if that particular policy were adopted it might not take any more than a month or so to implement it?

25
Mr. Goyeau: It is a question of requesting the information and collecting it. Whether the information is turned in as it is supposed to be is a separate question as to whether landlords would fulfil obligations that might be set down.

30
There is a steady parade going through the Residential Tenancies Commission. I have watched five or six hearings while we were preparing our Tenants' Association brief and typically when a Tenants' Association goes down there or



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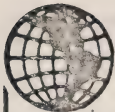
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tenants go down there, the Commissioner looks back through the records and if that building went through before whole building review for instance and there has been a three or four year's gap; whenever there has been a three or four year's gap and the landlord comes and puts in the rent schedule that he is putting, invariably, in almost every single case of that nature I have seen, the first part of the decision starts listing the illegal rent increases.

In our building there had only been, I think, a dozen that were taken in 1976 or 1977 and one of those was an illegal rent increase, and despite the fact that we have lived in the building since that time, and other tenants have known the rents in the building, we keep in touch amongst the tenants in the building, and humourously enough, there is only one lawyer in the building, and it happened to be the lawyer in the building with the Tenants' Association who had an illegal rent increase.

Now I don't know how tenants are expected to protect themselves when we get into a situation like that. It has been going on for a long time and I don't think further study is required. There is a parade; you just have to go down to Bloor Street and watch a hearing and you will see an illegal rent increase.

Mr. Epp: Are you saying that one building which had numerous tenants the one unit that had an illegal



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increase was the one that had a lawyer in it?

5 Mr. Goyeau: Yes. It was ironical in a sense
but yes, it was the lawyer. I am not a lawyer myself but --

Mr. Epp: That's a lesson for the lawyers on
this Committee.

10 Mr. Goyeau: To write better legislation, perhaps
to protect their brethren.

Mr. Chairman: My colleague says they are too nice
people.

15 Mr. Philip: That hasn't been my experience.

Mr. Epp: Thanks very much, Mr. Chairman.

Mr. Chairman: Mr. Barlow.

Mr. Barlow: Thank you Mr. Chairman.

20 Speakers may have mentioned this and I could
possibly have missed it, but how long did you say you have
lived in the building?

Mr. Goyeau: We have been there eight years;
since before rent review began; almost nine now.

25 Mr. Barlow: Has the building in fact been sold
during that period of time you mentioned?

30 Mr. Goyeau: No, it has not. We will be facing
refinancing of two mortgages next year and it appears that we
are going to be saved by the lowered interest rates if they
stay down, but not by this legislation.

Mr. Barlow: And could you give me some



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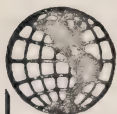
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indication of perhaps what your rent increases have been over the last four or five years?

Mr. Goyeau: Our landlord has only gone to the Commission twice. He went the first time about 1976 and then he went again this year. And because he hasn't had yet a refinancing application and he hasn't sold the building, there have only been cost pass through applications. I am going to search for a polite adjective; let us say that to date it appears that he has been optimistic in what he has asked for in that in almost every case the Commission has put back to almost six percent what he has asked for, but again, we are under appeal right now and so we have no way of knowing whether his 20 percent will be put back by the Appeal Commissioner or not and it will be another couple of months before we know what our rent increase will be.

Mr. Barlow: Perhaps I can ask the question a different way. I am trying to get a handle on the type of landlord that you have and whether in fact they are responsible; it matters less to me in this particular context whether they are offshore or domestic landlords, as long as they look after the tenants. I think that is the key point.

There are some that might take issue with foreign ownership but as you know in the case of Cadillac they are investing in the U.S. and unless we put up a barrier against investment, at the moment people can invest in whatever country



5 within reason they want to invest in. But would your rent increases, as an example, in the last half dozen years, would they have exceeded the rate of inflation or would they be below that or above that?

10 Mr. Goyeau: No. Because our landlord has a six percent mortgage its going to continue for a long time; he hasn't had to seek refinancing and therefore we haven't had large increases. And the point of onshore versus offshore doesn't concern us. It is simply that when we try to find out who the owner is to say we are the Tenants' Association, we
15 would like to tell you that we are, and when he puts out a questionnaire in the building asking for information and we reply, I think the type of treatment that landlords give tenants is typified in some situations by some types of landlords by that type of behaviour.
20

25 I am sure the members here wouldn't like to be in a situation in the Legislature where they weren't allowed to know the name of the Speaker and they could write to the Clerk and if the Clerk chose to answer he would and if he wouldn't he didn't have to, and that's just not simply the type of behaviour that should be allowed; and the fact that we are unable to determine who the actual owner is, we would in fact say well, this is only the property manager and there is
30 someone higher who is in authority, some individual that we could write to perhaps in Switzerland or in Germany, as cited



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this afternoon, Liberia or anywhere.

We would write to him and say, this is the Tenants' Association and we would like to introduce ourselves. These aren't very tough demands; we would simply like to be in communication with someone who is willing to say that they represent the owners of our building, and we find it impossible to do so.

Mr. Barlow: In connection with the maintenance and the quality of the building, I would assume that you are dealing through a superintendent or someone who is on staff in a building as large as yours. How has that in fact been with absentee ownership?

Mr. Goyeau: The maintenance was running down last year and is back up; there is a real surge this year. As soon as the application for rent review went in all sorts of things got done that had been sitting for a year or two, some that didn't need to be done, on the grounds that if they were jammed into this year they would be covered for the Commission.

I think an artificially low year, too, was created and then this year there has been a tremendous rush to do all sorts of things that have been sitting for a year or two. But you will notice in our brief we didn't complain about the maintenance in our building essentially. If there is a legitimate cost pass through according to the rules of



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5 the Commission we would have gone for it. But I think the point here is that we are subject to a variety of things that could influence our rents and we have simply said that we support the five percent freeze because we think the rents should be frozen.

10 I don't think discussing what form of cost pass through is really going to get to the point. If we are going to take clear action to say we want rents to be kept down, we want to protect tenants from their concerns, then the only way to do it is to say, fine, this is what the rent will be, and if one or the other of the factors goes higher than members can foresee now -- I can't tell what the interest rates will be when our refinancing comes up and we won't be covered; perhaps we will be safe next year and perhaps we won't.

20 I was terrified when they were running at 20 percent about the type of rent increase that would be for our tenants and our Tenants' Association next year and we had no way of fighting that and we still won't. If interest rates go up and half of our building's financing comes due next year we are going to have one hell of a rent increase and the only thing that is keeping us from that is the lowering of interest rates that has gone on in the last several months. That's good fortune, it is not this legislation.

30 Mr. Chairman: Thank you very much for your presentation; we are past time.



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Might the last group, Parkdale Community Legal Services, Diana Hunt and Fred Bever, please come forward.

Members of the Committee, the brief from the 11 Bereton Place Tenants' Association that was handed to you; that would be Exhibit 11.

Do you have a written brief with you?

Ms. Hunt: No. Our submissions will be oral.

Mr. Chairman: Fine, thank you.

Ms. Hunt: Before I start I would like to say that I think it is really unfortunate that Tenant Hotline was unable to make its submissions directly to you and that the only way Metro Tenants could get its submissions to you was by piggy-backing on a Tenants' Association. Parkdale Legal Services almost didn't get an appointment until someone cancelled.

We are the people who work with this legislation every single day and we have been participating in policy discussions and representation of tenants since the inception of the bill. Surely, in a situation like that space could have been reserved on your roster to listen to the people that work with the bill and will continue to do so in order that they can participate in the amendment process.

Having said that --

Mr. Barlow: Mr. Chairman, without entering into debate I would like to say as an out of town member, and I



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5 speak for, I think, others as well, that the very same complaint could be made for those out of town Tenants' Associations who are not nearly in the same position that you are in. At least the Metro Tenants' Group quite widely have been heard in regard to this particular issue but in my own riding and in Mr. Piche's riding and Mr. Epp's, we have no representation whatever.

10 So I think we have got a good cross section from Metro, if I could just offer that as an opinion, and we are trying to get as much input as we can. We have been dealing with this item for some time and we do have certain time constraints.

15 I say that by way of apology and explanation, but that's the reason.

20 Ms. Hunt: No, I appreciate the time constraints.

Mr. Chairman: Carry on.

25 Ms. Hunt: I am a staff lawyer at Parkdale Legal Services and I am appearing today with Mr. Bever who is a Community Legal Worker at Parkdale Community Legal Services.

Our office handled approximately 40 rent review hearings this year and Mr. Bever actually directly represented the tenants on about half of those hearings.

30 Mr. Bever: I would like to start off by welcoming the proposed amendment to the rent review program which will be realized through the implementation of Bill 198. This evening we would like to focus on what we view as two



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reasons why we feel these proposed amendments are so important.

First and not surprisingly foremost is the very real financial relief that the proposed bill will provide for many of the tenants who would have been facing huge rent increases under the existing Residential Tenancies Act as a result of either rent equalization and/or consideration of a financial loss due to a sale.

I think it wouldn't be an overstatement to say that the proposed amendment will save many tenants from economic eviction and given today's current housing market, economic eviction is something that brings with it incredible financial and emotional hardship and as such these amendments should be applauded.

While these changes, unfortunately, come too late for thousands of tenants who have already lost their homes as a result of exorbitant rent increases allowed under the Residential Tenancies Act or under its predecessor, the Residential Premises Rent Review Act, the barn door can still be closed with a significant portion of the herd intact.

Another very real benefit of the proposed legislation in addition to the financial is the somewhat less tangible psychological benefit. It has been our experience that since the implementation of rent review in 1975, tenants have become increasingly more cynical about the intent of the government's review program. Confronted with huge rent



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5 increases year after year many have come to question whether
rent review was in place as a tool for landlords to legitimize
enormous rent increases or whether it was actually there as a
piece of legislation to protect them.

10 At many of the hearings we have attended in the
past few years landlords have attempted to imply that the low
tenant turn out somehow was indicative of the fact that the
tenants are not that concerned about the size of the rent
increases and that they are prepared to accept the proposed
increase. In fact we know that the low tenant turn out is
15 more reflective of the fact that tenants over years of exper-
ience have come to appreciate that they would be better off
spending their time working, making the money to cover the
rent increase that is basically a foregone conclusion.

20 When one looks at some of the increases permitted
under the program one really cannot blame the tenants for
being so cynical. I would like to cite a couple of examples.
Over the years we have represented many tenants who have through
the rent review program found themselves confronted with rent
25 increases in excess of 75 percent. In one case these increases
brought the rent up to a level where the landlord himself was
prepared to admit that they weren't collectable and all he did
was use the awarded increases to selectively evict those
30 tenants he felt were the trouble makers. Once they had moved
out he brought down the rents to a level that reflected the



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true market value.

We have also represented tenants in buildings who over the years have experienced increases in the range of 20 percent on a continual basis. One building comes to mind; it is a building in the South Parkdale area; it is occupied largely by working class people and they for the last four years in a row have had their rents go up 20 percent. During the course of those years they have witnessed a continual deterioration in the standard of maintenance in their building. The question that comes to mind is what have they gotten in return for the rent increase? What they have gotten is the pleasure of making out their rent cheques in the name of four different landlords.

What adds insult to injury is every year they find themselves coming to rent review; the landlord comes forward, makes a proposal for a rent increase, begs the Commission to take into account his financial predicament and the fact that he is in a financial loss situation. A year later the tenants come back; its a new landlord making the same plea and when they look at the financial records they find that the landlord who was there the year before crying financial loss walked away from the project with a quarter of a million dollars in his pocket.

No wonder tenants are skeptical as to what the real intent of the rent review program is.



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5 The need to address this growing cynicism on the
part of tenants goes beyond just a desire of any government to
have the people it represents feel confident that the govern-
ment is actually representing their interest. It strikes at
10 the very basis of the program. A good way to put it is that
if one has a problem the onus lies with the individual to bring
an application. If a tenant feels that they are paying an
unlawful rent the onus lies on the tenant to bring the applica-
tion before the Commission. The Commission will not intervene
unless they are called in.

15 Obviously if tenants have no faith in how the
system is working they are not going to turn to the system to
get any support so the whole premise on which it operates
falls down.

20 Having said that -- I am trying to find myself
in my notes -- It is for those reasons both the financial
relief and the fact that hopefully these changes will help
address tenant cynicism, that we applaud the proposed amendment.
25 Unfortunately, while the proposed bill will enhance tenant
protection, because of the provisions allowed under Section 2
which sets out which applications will fall into the provisions
of the act, many tenants who could be protected from enormous
rent increases have been left outside the Act.

30 Just by way of an example, we are currently involved
in rent review hearings which will establish the rent increases



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for tenants in approximately 2,200 units. Of these 1,463 units are facing an increase based on the recovery of a financial loss due to a sale. Unfortunately, only 91 units will benefit from the proposed bill leaving the remaining 1,392 units subject to rent increase based on a principle that this very bill identifies as inequitable.

For those of you who prefer figures expressed in percentages, that translates to 94 percent of the clients we are currently representing will derive no direct benefit from the proposed bill. Why since these tenants have not yet received a final order can they not receive the same benefits? It is a bit of a rhetorical question because we feel they can and what we would like to do now is suggest a couple of amendments which we feel would make it possible for tenants who would at the current time fall outside the jurisdiction of the bill, basically receive the same treatment as their neighbours will get.

Ms. Hunt: The most obvious amendment to the bill that would include those, that 94 percent of our current clients facing financial loss increases what be to adopt what the Federation and numerous other deputants before you have argued, which is that there ought to be a five percent cap on all rent increases for residential units for the life of this bill at least and in fact I would argue until such time as there are in place adequate procedures to maintain and increase



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affordable housing stock.

5 I think that the suggestion has merit for a number
of reasons. First of all, it is much simpler than the bill
that you have proposed. Section 2 is a very complicated
10 section to figure out and I am afraid that the rationale for
extending coverage to pre-October applications in the case of
speculation as opposed to in the case of dramatic rent increases
doesn't make sense to me.

15 Just putting a five percent cap is, if nothing else
easier. Secondly, not only will a five percent cap discourage
high rent increases due to acquisition refinancing; it will
also discourage another trend which is becoming a problem in
Toronto and that is when landlords make significant capital
20 improvements and accordingly raise rent which take the unit out
of the affordable category.

25 I also support the Federation's proposal or, we
support the Federation's proposal that that five percent cap
ought to apply to tenants currently exempted from Part 11 of
the Residential Tenancies Act and I specifically refer to
tenants whose rents are higher than \$750 a month and tenants
who live in post '76 buildings.

30 A less attractive to us but possible compromise
would be to scrap Section 2 and provide instead that Section 3
apply to all tenants as of October 31, 1982. So that as of
October 31, 1982, the financing cost portion of a rent increase



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would be rolled back to be five percent of the base rent. That would involve in fact the Commission re-issuing orders that it has already made. However, since we would anticipate that this bill should cut down the number of applications being made to the Commission in any event, we would hope that the Commission would have time to do all of that.

A further possible compromise which is not as acceptable to us but is a possibility, would be to amend Section 2 by deleting (a) and (a) and provide that the Act will apply to all applications whenever made where final order was not issued on or before October 31, 1982.

Now, each one of those amendments would mean that the 94 percent of people we currently represent who are facing financing cost increases would now be covered by the bill.

It seems to me that it would be a great shame if, having recognised the serious problem and having taken some steps to address it, the government then passes a bill which at least for tenants in our area, gives very little relief.

While I am speaking to the Committee I would like to say a few words, first of all, about the issue that has arisen about the rent registry. I completely support the Federation's call for an immediate implementation of the rent registry. In our practice in Parkdale we run across illegal rent increases constantly and the really heart breaking ones are the ones that you cannot prove. You deeply suspect that



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5 it is an illegal rent increase; there was a recent turnover of
tenant and now the person's rent is \$150 a month higher than
the next person, but if the landlord has never gone to rent
review and you don't have any wonderful witnesses lying around
prepared to stick their neck out with the landlord then there
is no way of proving it.

10 Not only does the rent registry need to be imple-
mented, but some serious penalty provisions have got to be
implemented. I have become a little bit discouraged about the
process of charging a landlord under provincial statutes on a
15 private prosecution basis because I have found that provincial
court judges aren't always as understanding about our percep-
tion of the seriousness of the Landlord and Tenant Mct.

20 Also, I am not a criminal prosecutor and I find
myself rather hard put to be as perhaps professionally vicious
as one is supposed to be in a situation like that. Anyway,
we have not had good results and I would propose that you
consider instead implementing a procedure where there could be
25 a civil remedy for damages and that the Act specifically provide
that the damages that one could ask for would include exemplary
or punitive damages, that is, it is almost like a fine but it
is provided in a civil setting and I suspect would tend to be
very discouraging for landlords.

30 The last thing I would like to address myself to
is the disclosure issue. I don't know if I missed this because



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I haven't heard all the representations today, but while I have been here I haven't heard anybody express what is in fact in my mind the most important reason and that there must be disclosure of the beneficial principal in any of the parties that the tenant has to deal with and that is because at rent review there are already commission guidelines that provide that where certain transactions are not arms length they are not permitted by the Commission and that was presumably in an attempt earlier on to prohibit flipping.

If you cannot know who is behind the numbered corporation, you do not know whether this is in essence if not legally a flip and it seems to me that you might then have to take two steps. You have to say you must disclose who you are and if you do not have an arm's length relationship with the person with whom you entered into a transaction then the Commission is permitted to penetrate the corporate veil to the extent of looking at who the parties really are notwithstanding that there is a corporate body that stands in between the two parties.

Mr. Chairman: I think I have to interrupt you at this point; we are past time. That comment about disclosure was dealt with somewhat earlier.

Thank you very much. I am sorry, Mr. Philip. We are past time. It is now 9:16. According to the motion of last Friday, we have to start clause by clause in Room 151 at



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9:30, so we will go directly back and commence clause by clause then.

So thank you then. The hearing is now adjourned.

Mr. Philip: All I can say is that the last presentation was done so well that at least one of them should have been an Alderman.

Mr. Chairman: Thank you very much.

The committee recessed at 9:17 p.m.

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Government
Publications

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ANNUAL REPORT, REGISTRAR OF LOAN AND TRUST CORPORATIONS, 1979

WEDNESDAY, JANUARY 26, 1983



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Rae, R. K. (York South NDP) for Mr. Renwick

Clerk: Arnott, D.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Wednesday, January 26, 1983

The committee met at 10:09 a.m. in room 151.

ANNUAL REPORT, REGISTRAR OF LOAN AND TRUST CORPORATIONS, 1979

Mr. Chairman: Gentlemen, we have a quorum in place. May I, firstly, touch on a couple of matters that you should know of. We had scheduled Bill Pr10, the North York bill, for Friday, this week. Neither the mayor, the city solicitor, the minister nor the parliamentary assistant were going to be available. Therefore, the municipality asked that it be postponed to a different time.

Then we had Bill Pr33 scheduled for Thursday. I received a telephone call about 9:30 a.m. from the minister. As a result of the minister and the parliamentary assistant being unavailable, they, together with the city of Kitchener, requested that this bill also be deferred. In anticipation of this committee being tied up with other matters, Kitchener also further requested that, perhaps in the near future, the private bill go to Mr. Barlow's committee, the standing committee on general government.

I have left it for the minister to deal with the government House leader, and I assume he will be in touch with the other House leaders. I assume, from our point of view, if both parties ask for an adjournment, that we will concur. Is that the consensus?

Mr. Breithaupt: Mr. Chairman, you have lost me on one point, and that was the expectation of rescheduling the bills. Will the city of Kitchener bill, Bill Pr33, be going to the standing committee on general government?

Mr. Chairman: It would not be up to this committee to say where it would go. I presume that would be up to the House leaders to decide where it was going to go.

Mr. Breithaupt: If that is the case and it is decided that it would go elsewhere, perhaps the clerk would be sure to advise me since, as the sponsor of the bill, I think I should be present if at all possible.

In any event then, at least so far as this week is concerned, the committee will not meet either on Thursday or Friday on those items.

Mr. Chairman: I'm asking the committee for consensus on that.

Mr. Breithaupt: Presumably, the committee would not meet on Thursday, in any event, because Bill 215 is going to be debated on second reading that afternoon, which would preclude the minister and others interested in being present.

Mr. Swart: I'm having a little trouble hearing you.

Mr. Chairman: Mr. Breithaupt is anticipating the likelihood of what might or might not be substituted on Thursday afternoon for Bill Pr33.

Mr. Breithaupt: In fact, Bill 215 will be debated on Thursday afternoon and Thursday evening. Therefore, this committee would not be meeting in any event. Is that not correct?

Mr. Chairman: No. I would think it would be up to this committee to decide what it wanted to do.

Mr. Breithaupt: With a bill in that policy field being debated, I don't expect that the committee could meet.

Mr. Chairman: Fine. Is that a consensus? Thank you. Copies of the statement, dated January 31, on the topic at hand this morning are being circulated. Also being circulated is the 1979 report of the registrar of loan and trust corporations. There's also a letter which was delivered to me at approximately 9:50 a.m. from the registrar and dated today referring to the 1980 and 1981 reports. That is again circulated for you. I don't think I need to refer any more to that. Mr. Mitchell.

Mr. Mitchell: Mr. Chairman, if it's in order at this point, I must say the reason we are here this morning, to consider the 1979 annual report of the registrar of loan and trust corporations, has caused me some degree of difficulty. I have a motion which I will put and then explain my reasons for it.

Mr. Chairman: Mr. Mitchell moves that with the Morrison inquiry in progress and various witnesses still to appear and give their evidence under oath; and with related criminal investigations still in progress; and with the ministry conducting an investigation; and, furthermore, since there are proceedings before the courts and matters expected to be placed before the courts, and related proceedings before and by the Ontario Securities Commission; and since negotiations relating to the sale of the assets of Crown Trust are under active consideration, consideration of the 1979 report of the registrar of loan and trust corporations by this committee would not be in the interests of the depositors and the public at this time and, therefore, such consideration be deferred.

Mr. Swart: On a point of order, Mr. Chairman: I have sat on this committee for quite a long time, including when it was discussing the Re-Mor and Astra issue. When there was a petition referred by a particular party to this committee, the practice was that the party referring the petition--the annual report--would be first recognized by the chairman. It would seem to me, therefore, that in this particular instance you should have first recognized--my leader did have his hand up--and even yet should recognize, the party which, by petition, referred this matter to this committee.

Mr. Chairman: I'm going to rule that this is not a point of order. Here we have always gone in the order of whoever's hand is up first. I have Mr. Rae second and the others, Messrs. Cunningham, Swart and Breithaupt, in that order. I have them in

the order in which I saw them. Matters of privilege, matters of order and motions can be made at any time. I don't see anything out of order in having recognized Mr. Mitchell and in his having made his motion at this time. Carry on, Mr. Mitchell.

Mr. Mitchell: It's my understanding that a standing committee can only consider those matters which have been referred to it by the Legislative Assembly. In this case it happens to be the 1979 report of the registrar of loan and trust corporations. I appreciate that, as a result, the committee could not, without the concurrence of the Legislature, be entitled to consider anything beyond that particular report.

It's quite understandable, however, flowing from those deliberations, that the committee might feel it should go beyond these matters, asking questions relating to current events, taking the position that they are ancillary to that report.

I have detailed all of the things that are going on at this time, Mr. Chairman. If we were to get beyond that realm, I don't believe it would be in the best interests of the public or the depositors. I should also point out that many of the people whom we, or this committee, might choose to call are so actively involved in all of the ongoing processes that we might create another adverse effect on those processes, I do not wish to be party to this.

Mr. Chairman: Thank you. Mr. Rae?

Mr. Rae: I think the motion which has been moved by Mr. Mitchell is nothing more nor less than an attempt by the government to prevent this committee from doing its job and carrying out the mandate granted to it by the Legislature, ruled in order by Mr. Speaker.

You have in front of you a letter from the registrar, indicating that it is because of a failure and a mistake on his part that we do not have the 1980 report tabled in accordance with normal practice, and an indication that he will make arrangements with the minister to have this done.

Notwithstanding that, the motion that Mr. Mitchell has moved says that there are several matters "before the court." What court? One of the problems is that there have not been any proceedings at all brought by the government with respect to these matters. The fact is that the government is attempting to use this motion as a means of preventing this committee and the Legislature from doing their jobs with respect to the work and conduct of the registrar and of the ministry with respect to the regulation and vetting of various companies that come under its jurisdiction.

I say with great respect to Mr. Mitchell, and to other members who have been involved in the preparation of this particular motion--this attempt to prevent the committee from doing its work, and us from finding out the truth with respect to this matter--that there are very legitimate questions that we have regarding the work of the superintendent and of the registrar. We have some very real questions about the lending practices of companies whose names are to be found in this report.

Seaway Trust is just one example. I think we're entitled to know what the lending practices of that company were and whether the overvaluation problem is one which arose in the months of September to December or whether, as we have very real evidence to believe, it's a problem which has a history that goes back some way.

I think we are entitled to cross-examine Mr. Thompson as to what time he started to examine the affairs of this particular company and to know exactly what kinds of investigations took place prior to the information being provided in this report. I think we are entitled to know what techniques and what methods the registrar used when it came time to deal with the question of these companies. I also think it is essential that we, as a committee, be in a position to cross-examine the registrar or the minister with respect to the information in this report now and not have this matter deferred and put off endlessly. The questions that are before the Legislature and before the court have to do with Crown Trust. We have questions with respect to the other trust companies that have been involved in the Cadillac Fairview affair.

10:20 a.m.

I think it is completely inappropriate for Mr. Mitchell to be attempting to stop this committee from doing its work and its job. I think it is essential that there be a forum in this Legislature where its members can cross-examine those people who have been involved in the regulation of the trust business to find out exactly what they have done and what they have known, to be able to demand information, to gather documents, to examine and to cross-examine witnesses under oath, and to try to shed some degree of light on this business and protect the public interest.

I would suggest that if this committee is prevented from dealing with the problems of the companies that are covered in these reports, if we are prevented from doing our job, then it is a very sad day for democracy. I mean that in all sincerity. It is also a very sad day for those of us who want to get to the bottom of this matter.

I think it is extremely improper for this motion to be passed, or even to be considered at this point. I believe that, following the mandate that was given to us by the Legislature, it is incumbent on this committee to be considering the ways in which we can facilitate the cross-examination of the registrar with respect to the information that is contained in this report.

There is evidence with respect to some of the lending practices of these companies that go back a long way. I think we would be making a very foolish mistake indeed, as a responsible committee in this Legislature, if we failed to do our job in attempting to get to the bottom of it.

Mr. Chairman: Thank you. Mr. Cunningham?

Mr. Cunningham: Mr. Rae has quite properly distinguished the difference between the Crown Trust matter, which is, of course, a major concern to all of us, and the fundamental responsibility that the government, more particularly the ministry, has with regard to the regulation of loan and trust operations in Ontario.

I really find Mr. Mitchell's motion, this early in the proceedings, to be somewhat offensive and analagous to a rug-sweeping motion, one that would restrict the work of the committee and would not allow us, as members of the Legislature, to discharge our responsibilities.

We have been through a very sad litany of failure within this particular ministry. I say so, not out of any partisan context, and certainly not out of any sense of glee on my part. Mr. Chairman, you have been part of this, and prior to your arrival here, other members here have been required to deal with the Astra/Re-Mor matter. We have seen the same pattern of incompetence, negligence and maladministration time and time again. Our concerns, expressed in this committee, in the Legislature and in other forums, and concerns expressed by others, have caused us to have very genuine concerns about the operation of the Ministry of Consumer and Commercial Relations.

We have warned the ministry on a number of occasions. We were in this very room, two years ago next week, and we indicated in our interim report on the Astra/Re-Mor matter that we were very concerned about maladministration. I could quote for you, Mr. Chairman. The committee initially "regretted that it was unable to complete its inquiry," and we thought it should be continued after the election. We did feel, however, that on the basis of evidence received thus far, "serious maladministration of the relevant provincial laws had occurred with respect to protecting the public against the activities of Carlo Montemurro and his various associates and corporations."

We also felt that "while the administration of the relevant federal laws was beyond the jurisdiction of the committee, it received evidence indicating political influence was exerted on federal officials to incorporate the licence of Astra Trust as a federal trust corporation." We invited the federal Parliament to examine a transcript of our hearings.

More importantly, the committee was also "of the opinion, based on the evidence of John Clement, former Minister of Consumer and Commercial Relations and former Attorney General, that political influence was exerted on the provincial officials to obtain a provincial registration for Astra Trust. The committee has no hesitation in reporting its view that, on the basis of evidence so far, the government of Ontario should compensate forthwith the members of the public who lost money in financial transactions arising from the licensing of Re-Mor Investment Corp. as a mortgage broker. Compensation should include appropriate legal costs which such persons have incurred up to the date compensation is paid."

Finally, the committee recommended that its inquiry "be continued and completed should the Legislature and the committee be now dissolved."

During the course of the election, my good friend the member for Burlington South (Mr. Kerr) was of the same view. He indicated in remarks to the Hamilton Spectator that there were very serious administrative difficulties within that particular ministry.

Mr. Brace, the vice-president of Deloitte, Haskins and Sells, the receivers on the Re-Mor matter, had some comments on this matter. I will just quote in part. On February 24 in a letter written to the Deputy Minister of Consumer and Commercial Relations, Mr. Crosbie, and as well to Mr. Humphrys, the superintendent of insurance, and Mr. Close of the Canada Deposit Insurance Corp., Mr. Brace said, "There were facts available to various government officers which, if they had been properly integrated, would have suggested that neither Astra Trust nor Re-Mor should have been licensed.

"There were from the beginning repeated incidents, breaches of undertaking, breaches of licence conditions which indicated a clear and present danger that the principals of the trust company were functioning without any concept of fiduciary obligation. Opportunities presented by these warnings to conduct a thorough investigation, rigidly control the operations, correct the improprieties or ultimately close down the operations were not taken. Decisive action was not taken by any level of government in the face of the repeated opportunities until the depredations were too far advanced.

"Finally, there was jurisdictional confusion between the responsibilities of different levels of government as well as different departments and authorities. This confusion was a major contributor to the damage that occurred. We are of the view that there is an urgent need to review both the legislative framework and the operating procedures concerning the regulation of these types of financial intermediaries."

That is from Mr. Brace, who is not a member of the Liberal Party, I believe, nor a member of the NDP, but the vice-president of this company who was charged with responsibility of overseeing its stewardship as a receiver.

Members of the Legislature have a responsibility. We are sent here not to cover someone's fanny after a political mistake has been made or administrative errors, but we have a duty and a responsibility to the people who send us here to make sure that these kinds of things do not happen. This, in part, is what this committee could do, not to get into some discussion about some matter that may be before the court or may come before the court next year or anticipating something that may involve Crown Trust, but to look at the operations of the ministry, the procedures of the ministry, deficiencies in legislation and to deal with them. That, gentlemen, is our responsibility. That is what we have been sent here for. We have asked questions in the House which, of course, is our right and duty to do.

A question was raised on June 11, 1981, some year and a half ago, to the honourable minister, who, at the time, was Mr. Walker. I think there is a great deal of responsibility in this matter. Mr. Walker assured the honourable members that they had done things within his own ministry to improve areas. He said: "We now have a much more extensive internal communications than we had before. This has been going on since last summer, so it has been in place for 10 or 12 months. We are holding joint meetings now between the financial institutions branch, the business practices branch and the Ontario Securities Commission, which was previously not the case."

"We feel we have tightened up in that regard and that things are better now because of internal communications. We feel we have new systems in place for capturing potential problems and bringing them to the attention of top management and ensuring circulation wherever there is any kind of problem."

10:30 a.m.

Mr. Walker continued, "So there is a lot of internal communication going on. We have more frequent liaison with the police forces and we find it is working well to turn up things and to share information. We have doubled our efforts in that regard, and this has been going on since the spring of the year."

He concluded by saying, "We have something called a supplementary information list, which is a special computerized list of people who might be considered problem people. This is circulated and updated on a daily basis. We have a much more extensive investigation process today. We feel that we have done an awful lot of things and, frankly, many of the things the member is suggesting just are not needed."

Mr. Chairman, if this committee is not allowed to proceed, if this matter is going to be casually swept under the rug, as we have seen, despite motions by members of the New Democratic Party, motions by myself and Mr. Bradley to examine, not in a political sense, but operations of this ministry and the deficiencies to ensure that it never happens again, I say to you, as members of the Legislature, we are not discharging our responsibilities.

It is not inconceivable that if these loopholes in the legislation and, more particularly, deficiencies in the administration within the ministry itself are left unchecked and left the way they are, we could be back here a year and a half from now or nine months from now dealing with another failure. If somebody had said-- well, frankly, it was said to you, it was said to members of the committee here. Mr. Piché, I think was here. Mr. Mitchell was here. It was said before when we were discussing this that this could happen again and it was not inconceivable that it would happen again. And now it has happened again.

This now involves millions and millions of dollars. It must bother each and every member of the Legislature, particularly the Conservative caucus, particularly people here, who as a result of

the vote, their conduct in previous meetings--and I do not want to castigate them for it--have frustrated investigations of this ministry, have terminated discussions, have wound up the previous work of the committee, work that maybe if we had continued just in this forum itself, we would have got to deficiencies in the act and, more appropriately, dealt with some of the problems within the ministry itself.

I want to say to you, sir, unequivocally, that what Mr. Walker has told the House repeatedly, not just on June 11 but on many other occasions, is at variance with practice. It is inconceivable to me that if these systems that Mr. Walker so ably described on page 1499 of Hansard, dated June 11, 1981, if these systems were in place, that we could be in such a sad and sorry state today on the Greymac, Crown, Seaway matter.

Really, I say to you, set aside partisan considerations. Set aside any direction that you may have been given by your whip and reconsider your motion because I think that we have an obligation to get into this. The members are sufficiently well-educated, mature and have a sense of propriety not to deal with the Crown Trust matter in detail so as to prejudice the potential sale if it is going to take place. We did that very ably and very capably, and some of the members here attending the committee were not members of the Legislature at the time--Mr. Mitchell was--on the Astra/Re-Mor matter. The great allegations and fears that we were--Mr. Pope referred to it in the House as the Star Chamber, which I found a little offensive.

The harsh facts of reality are that at the conclusion of our committee work on February 2, 1981, there was no breach of the doctrine of sub judice. There was no involvement where we would have prejudiced Mr. Montemurro's civil rights or any of the other people that were charged in any way. No lawyer, to my knowledge to date, has brought any application to the court or left any indication, public, private or otherwise, that as a result of our committee investigation Mr. Montemurro's rights and privileges were in any way abused.

So what I say to you, Mr. Chairman, is that this committee is seized with the responsibility of investigating deficiencies within the ministry. We are capable of doing that, of discharging our responsibilities as members of the Legislature and not prejudicing anything that has anything to do with Greymac or Seaway or Crown or the disposal of their assets through legislation or any other means. I ask the member to reconsider his motion.

Mr. Swart: I heard the member who has just spoken say privately when he came in that, "It seems to me I have been through this before." He has and so have I and so have several others in the Astra/Re-Mor case. I look at the motion that we have before us here from a member of the party of the government of this province. It has all of the same tones and the same phraseology of deferring and of things being before the courts and being investigated elsewhere that numerous other motions had with regard to Re-Mor. You, Mr. Chairman, will know that to be the case.

The arguments put forward that it is being considered by the courts--although, of course, it isn't at the present time, but they say there are criminal investigations in progress--were used at that time. However, when there was a minority government in this province, we disregarded this resolution which was brought in during the fall of 1980. We went ahead with an investigation by this committee.

Of the dire consequences that the members of the government stated would happen, the sub judice and all of those things didn't take place. We went ahead with a full and thorough investigation until a majority government came into power. There was no sub judice and there was no validity to the arguments which had been put forward by the government members. I suggest the same thing holds true at this time.

The majority government came in, and then those resolutions again came forward from the government members with regard to further investigation of Re-Mor. They were passed because they had a majority on this committee. It was deferred and put off and we never dealt with it.

The opposition was proved to be right on that instance. We had done enough investigation to find out there was negligence and maladministration on the part of the government. After this whole matter has been referred to the Ombudsman, we now find out that there is going to be a recommendation that these investors in Re-Mor be reimbursed. So we are replaying the whole thing, and the arguments that are put up in this resolution are only a façade.

As has already been stated, we don't have the latest report of the registrar of loan and trust corporations. We then have a letter of abject apology from the registrar, Mr. Thompson. I would suggest that this kind of sloppiness--you can only describe it that way--is a reason in itself why we should have Mr. Thompson before this committee.

The government members know exactly why they are blocking this. They know the kind of resolution that my leader would be putting forward here today--they may have already seen it--to have Mr. Thompson and Dr. Elgie come before this committee. I suggest to you that it's a sensible resolution, but if we pass what is before us now, it is going to block that.

You know very well that although this is the only report that we have before this committee, it will give us the opportunity to examine everything that comes under the jurisdiction of Mr. Thompson and we can ask questions relevant to the current trust scandals. There are a lot of answers we in the opposition party need to know--and, I suggest, the government members too--to make the kind of decisions in the Legislature that have to be made during this session, perhaps not too far down the line.

Of course, if Mr. Thompson and Dr. Elgie come before this committee, they can bring their solicitors with them. They can refuse to answer questions if they think this is going to put

their investigation, or any other aspect of the whole issue, in jeopardy. If they think there is going to be sub judice, they can bring it up here. However, to attempt to block any further questioning of the minister in a committee like this, which is the only kind of a forum where you can really zero in on this issue, I suggest is to attempt to stop the normal processes of democracy and to hide those things which should be brought out in the open at the present time.

I suggest we need to ask questions now about whether there is any opportunity to unravel this problem, whether this \$125 million or \$200 million missing has, in fact, disappeared, or whether we can move back, either through a special bill in the Legislature or even under the existing legislation, to recover this money so that either the depositors or the government of Canada or the public in some other way are not going to have to foot this bill.

We should be able to ask those questions and find out before we have to vote on a bill to sell Crown Trust and perhaps to sell the other two, or whatever we are going to do with them.

10:40.p.m.

We should be able to ask questions about who the beneficial owners are. It may make a real difference if we find out there are no investors from the central Asian countries in this at all, that the same people who own these numbered companies are the ones who hold Greymac Trust, Cadillac Fairview and Crown Trust. We need to have answers to that and to give directions in the Legislative Assembly of this province.

We need to be able to question the involvement of senior people in the Conservative Party in these trust companies so we know when we are making a decision about whether the sale is really to protect the depositors or whether there are other reasons involved in this. All of these things have a bearing on the decisions that we have to make as members of the Legislative Assembly of Ontario.

Here we have a motion, right at the beginning, which I suggest does break precedents, Mr. Chairman, when other petitions have caused annual reports to be brought before this body. I hope you will check this out. Here we have a motion at the very beginning which is going to block even the slightest investigation at this time into this matter by the justice committee of this province delegated by the Legislative Assembly to see that justice can be done.

I would ask the member who introduced this motion if he would not consider withdrawing it at this time, if he wants to put it later, if we find difficulties in investigation or we are getting into a bind or it is just not working. Then he could move a motion of closure, but to move a motion of closure before we even discuss this issue is, I suggest to you, contrary to all the best interests of democracy and to assuring that the best interests of the depositors and the people of this province are served in this trust issue.

Mr. Breithaupt: Once more we are faced with a massive potential fraud and theft in this province, and all that the government of the province can do is ask to be taken on faith.

Mr. Mitchell is here, not as a private member of this committee, but as the parliamentary assistant to the Minister of Consumer and Commercial Relations. He should know, as much as anyone in this Legislature, what some of the problems are in the operation of that ministry. They have been quoted from the comments which Mr. Walker made when he was minister. He says, "We've got a special persons list." Well, let's see that list and the names on it and whether any of them have been involved. At least let's find out whether the persons who are now involved ever did appear on that list.

You are prepared, apparently, to take on faith that all is well. Even in your time in this Legislature, which looks like two or three years for the six government back-benchers who are going to vote for this motion, you seem not to have learned anything from the one major event that has happened in your time in the House. That was the Astra/Re-Mor situation. It's not good enough to try to deal with matters like this in this kind of situation.

Mr. Mitchell is quoted in the Globe and Mail this morning as saying, "You can't do all the investigating on the floor of the Legislature." That almost could be one of the themes that should be carved into that one last plaque on the floor of the Legislature that doesn't have anything on it. In this case you can't do any of the investigation either in the Legislature or in a committee. We're looking at what is possibly the quickest, largest scam that we've ever seen in Ontario. We are seeing problems of administration in this ministry being called into question.

In Mr. Mitchell's opening comments, he referred to the fact that just because we had the 1979 report, it was likely that other matters somewhat more current would appear. That, of course, is the case. I believe we should look a little more closely at the letter which we received from the registrar. Let's read it into the record, Mr. Chairman. It's addressed to you.

Mr. Thompson writes as follows: "It has come to my attention that the last annual report of the registrar of loan and trust corporations tabled in the House is for the calendar year 1979. As you may know, the report is prepared for the minister. As a matter of practice it has been tabled. In fact, the draft unnumbered bill, circulated in 1981, proposing amendments to the Loan and Trust Corporations Act, suggested that tabling in the House be made a statutory requirement.

"I am advised that the Speaker has indicated that standing order 33 requires all reports required by statute be presented to the House. It is, therefore, with some embarrassment that I must advise you that the tabling of the 1980 report was not carried out in accordance with our normal practice. I will make arrangements with the minister to have this done.

"The report for 1981 is still at the printers. In this regard the time required in the preparation and checking of numerous tables contained in the report has always resulted in substantial delay in the release of the reports.

Recent technical improvements in our word-processing equipment will enable us to store much of the information required in the reports on floppy discs. This, in turn, will enable us to produce the annual reports in a timely manner.

"Please accept my apologies for any inconvenience that may have arisen out of the present situation."

That ends the letter and we're faced with floppy discs in the future, upon which all the facts and figures of Ontario will wiggle and waddle back and forth. We're always told about the progress. We're always told how things are going to be working just fine. We've got a new system. We've got floppy discs. We've got new computerized procedures. We're meeting regularly; we're dealing with all of these concerns. Unfortunately, nothing much seems to happen.

Mr. Swart: We had red flags before.

Mr. Breithaupt: Yes, we have red flags in the files. It may just be that, having been in opposition for some years, I am a bit more skeptical at times of progress than I should be if I had some faith. It may be that the members on the government side--as they begin their political careers in this place, having come from a variety of backgrounds and responsibilities in which they had to make decisions and deal with matters--have somewhat more faith in these matters than I do. I can assure you that having seen these events, having had them reported over the past dozen years in this province, it surely is time that we looked at the procedures within this ministry.

Part of it, I suppose, is that we've had eight or nine ministers over the last dozen years, whatever the term may be. We have had a number in the last five years alone, five of them. Ministers come and go, and it would appear most unfortunate that many of the problems that have occurred relate at least somewhat to the revolving-door approach as people have come and gone with the responsibility of minister.

It's not just being responsible for one or two pieces of legislation, which is sometimes the case in other ministries. There are 70 pieces of legislation for which this minister and this ministry is responsible. It is a massive operation. It's considered, apparently, by the Premier (Mr. Davis) as one of the minor portfolios because he moves people in and out of it. That's an unfortunate view. It's a view which has, to a degree, led to the lack of consistent control at the top by a minister who gets to know the responsibilities and is able to see things develop and be dealt with over a number of years.

I think each of the ministers that has had this portfolio would have had certainly the ability to do that if he had been left in that portfolio for a somewhat longer time. However, that's a decision the Premier makes from time to time and it's the one, therefore, for which he is ultimately responsible.

10:50 a.m.

When you look at the motion that is before us, we have the opportunity, through the reference of a report, to look at a variety of procedures and practices of part of a ministry. Of course, the sole purpose of this reference, which my leader and I signed, together with 18 members of the New Democratic Party, was to make sure it came on as quickly as possible and to be of assistance in doing what we thought was the right thing to do. This motion would open up a discussion of procedures, a discussion of that list of persons who are problem persons, a tabling of a list of all of the directors, present and past, of the companies that are under investigation; indeed, I would suggest it would provide a list, as well, of the lawyers and accountants who have acted for them over these years so that we are assured by name of all of the players in this particular charade.

We are seeing evidence brought before us a tremendous loss or certainly a tremendous movement of funds, obligations and assets. It was clear from the meeting with Mr. Biddell that my leader and members of our caucus had yesterday that the only real money that appears to be identified in this \$500 million deal is \$152 million worth of depositors' money. As my leader was quoted as saying, "No one can see any new money. No one can see any Arab money. No one can see any money from Kilderkin. No one can see any money from Greymac Trust." If that is correct, then we are in a situation which is going to bring severe financial strain to the entire banking and trust company business within this province.

I was interested, in looking in the Report on Business in the Globe and Mail this morning, or perhaps it was in the first section, that there was, as I recall, a comment made by Mr. Gerald Bouey, which I thought was a most interesting comment, one which deals with the need for faith in the system. The comment was that there has to be seen to be not only control but responsibility at the head of the financial operations within this province.

We now have Bill 215 before the House. It is a bill which I am sure Mr. Biddell would have wanted the day we returned. It is a bill which was introduced on Monday and, as of 10:30 p.m. last night, we were advised that it is going to be debated on second reading tomorrow afternoon and evening. Indeed, of course, it may well take some more time than that. That legislation is a further aspect of faith which government backbenchers particularly are going to have to consider.

I noticed the report with respect to the views of the member for Brantford (Mr. Gillies), saying that now that he had information he was content that the government was doing the right thing. I hope that he is content because his municipality has \$3

million or so in Crown Trust. In my situation the city of Kitchener has \$1 million there. In speaking with the treasurer, Mr. Bob Eby, this morning before these committee hearings, he was most concerned that whatever could be done to salvage and protect those moneys would be done promptly by the Legislature. Obviously, nothing can be done, even on that bill, before tomorrow, and yet we have the opportunity today to spend some time dealing with procedures under the Loan and Trust Corporations Act.

Those procedures, in many instances, are requirements by statute. You have heard the references to section 193 and the requirements for directors either to advise immediately or within a certain period when they find out about matters with which they are not content on valuations or loans or other situations, to report back to the superintendent, or I should say, the registrar, to be correct. In this instance, Murray Thompson, QC, has been for some years, as director of the financial institutions branch of the ministry, both the registrar of loan and trust corporations and the superintendent of insurance, so you will forgive me for confusing that title at that point, I am sure.

We have now a motion that suggests that because other things are happening in other places, it is not appropriate to look at the mechanics and the procedures within the ministry. That was the point made at the time of Astra/Re-Mor affair and, once again, it was the point which was underlined, in effect, by the comments Mr. Walker made as minister in 1981. He said we have procedures. He said we have a special list. He said we have all sorts of meetings and all sorts of contact, which, of course, is what should be the case.

There must be within the ministry clearly a web of contact and interaction so that matters heard by the securities commission, or rumours perhaps that come from an insurance company, or problems which arise through an incorporation or an annual report of a public company, or whatever, have all filtered through so that we know what is going on and so that the ministry has an overview of problems before they might arise.

The problems have continued to arise. I don't know whether the internal investigation which the minister proposes is going to be satisfactory or not. Indeed, there are matters before a variety of bodies and groups across this province. The Ontario Securities Commission is clearly interested in matters. There have been motions brought before the courts with respect to certain payments and the ownership of certain moneys which might be deposits or otherwise, but that has not, in effect, been as the result of any criminal charges against the persons who have ownership of the assets of these companies at the present time.

It was interesting to read the article Jack McArthur did in the Toronto Star and to follow the views he developed and see the conclusions he reached. First of all, he writes this: "The province can force the trust company rapidly into new and less explosively controversial hands. That will help calm one part of the great financial storm."

The second point is: "This would remove some of the heat on Ontario to tell us how, why and how widely the financial crisis developed and under what inadequacies of regulation and surveillance. For both judgements," he writes, "we need information. The province's distaste for giving it suggests two things. First, it could make matters even more politically embarrassing than they already are. Second, the mess may be bigger and more extensive than most of us think."

Those are two very interesting conclusions. We are in very difficult circumstances with respect to these events and the concern and lack of trust they have brought to the financial institutions of this province. Every trust company, large or small, is going to have to justify its existence, not only to its shareholders and, more particularly, to its depositors, but indeed to the public at large.

When you look at a company like Crown Trust that was formed in 1897, you see what I think is the 11th or so largest trust company in Canada. In an industry whose roots go back to our earliest days, and from which strong and resourceful and successful and responsible companies have grown, we see the faith in that system severely damaged.

If you support this motion, and in this, of course, it is obviously the government members who would make this decision, what you are doing is saying to the people of Ontario that you do not want to look at this now, and you are going to leave the conclusion that you do not really want to look at it ever. We have seen a number of these matters in the 15 years that I have been a member of this Legislature, and there is no one more interested than I am in making sure that these funds find their way back, if they are missing, to the people who own them. There are many of us who have school boards, regional municipalities or our own municipalities involved, some \$40 million, or it could be more by this point, with respect to these kinds of obligations.

What we have seen in the last few months is simply a reluctance to answer the questions that have to be asked. That reluctance is a very difficult thing to accept because it was quite clear, as the media have reported today, that the variety of comments and suggestions made by Mr. Biddell to my leader, Mr. Peterson, and the Liberal members who attended that meeting, have added information which could have been added by the minister, not only a week ago but indeed a month ago.

As Mr. McArthur writes when he looks at the matter of faith: "It is terrifying in an industry that flourishes according to its ability to raise money from the public in order to make loans and other investments." Certainly, that is going to be the result of the rumours of the alarms and excursions to which we have all been subject. We have a clear responsibility from our involvement in the Legislature to ensure that the registrar of loan and trust corporations is doing the job that should be done and must be done by statute and is providing the kind of overview that is prudent within a province this size.

We are not talking about a small trust company in one of the smaller provinces of Canada. Ontario's legislation has always led the way as far as financial institutions have been concerned. Several years ago we rewrote all of our securities legislation. We have had changes to insurance company legislation, with which I have had some involvement. We have had, as well, loan and trust corporations acts and we have reviewed nearly every aspect of the commercial law of this province over the last 15 years. We have probably the most up-to-date legislation for financial institutions in North America. Many of the other provinces, with smaller populations and with smaller staffs, have used our legislation virtually to copy what we have done in this province.

We have good legislation. We have had a lot of work done to it. We have had a lot of involvement, not only with the financial interests but with this Legislature, in bringing forward as up-to-date legislation as exists anywhere in North America, and for that I think we should take some credit. It should be pleasing, not only to the government members, but also to the opposition, that suggestions have been accepted from time to time and that we have moved forward in a good steady pace to bring our legislation up to date.

That legislation may well be up to date and look very good on paper, but it is only the first step. We have also the obligation to ensure that the fine statutes which we put in place are being properly administered and the information required is being thoroughly and appropriately available. That really is why the report is here before this committee, namely, to look at the operations of the ministry, to look at the responsibilities of the registrar, to look at the investigation of and mechanics of operating the duties which appear in this report.

In looking at Mr. Thompson's letter, I quite agree that when you look through the tables in this book you must be assured that every one of those figures is accurate. Of course, it takes time to review those figures, to deal with all the additions and the calculations, to make sure all the columns match up. It does take time.

Understandably, the report of the registrar might well be six or eight or even 10 months after the financial year end. There is no question about that at all. The accuracy must be the most important thing. If a report like this, which is of historic interest, is delayed several months, then if that's the tradeoff, accuracy is the more important. I don't quarrel with that at all.

I recognize, of course, that 1980 was delayed unfortunately, but that was for reasons explained in Mr. Thompson's letter. It may be, as a result of computerization and the floppy discs and all the other good things of our future, that these reports may be several months earlier in the future than they have been after the end of their financial year. If that's the case, that's just fine. Certainly we don't want to take any work away from a machine if we can avoid that.

We are looking at the mechanics of operation within the ministry. I think that the reference which is before the House, and it was found to be in order, since it is a statutory report, is something which this committee should consider. We have the opportunity to have a variety of persons appear before us, but the two in whom we are most interested are clearly the minister of the day and also the registrar, who has been in this responsibility for some years. This is what we should be doing as we look at how we can be involved in improving the situation.

I suppose, to a degree, we are looking once again at the barn that is unfortunately getting rather empty. We have the opportunity, if not at least to lock the door, to see if we can repaint and repair the barn, which may make it a somewhat more attractive place in future. That attraction is one which certainly appeals to me because I believe that we can do much in ensuring that the mechanics of our legislation are seriously looked at by those who are given the responsibility for their administration.

There is very little that we as individual legislators can do in our day-to-day work. One of the things we can do is to make sure, at least, that the public servants, those who are in charge of our crown corporations, our agencies, boards and commissions, that all of these worthy people are doing the job we have directed them to do. We can make sure, at least, that they are obeying their statutes, that they are filing their reports, that they are doing the things that are supposed to be done.

We can't sit and second-guess what they are doing. We can't go behind the desk of every one of these directors or administrators, but we can call them to account to make sure that the statutes are being obeyed and that they are doing a decent and workmanlike job. Certainly, that is the case among the vast majority of the senior public service who have those responsibilities.

But vigilance in this instance is the task of the legislator. Vigilance arises when you have on occasion the opportunity to review in depth the attitudes and the results of the persons who are placed in these senior responsible positions. I hope we will have the opportunity to look into this particular aspect. I think it would be something most worth while.

The motion that appears before us and that was placed immediately upon the calling to order of this committee is, in my view, a most unfortunate one. I hope that it will be reconsidered. I hope that we will have the opportunity of doing what we should do in this matter, which is to look at the operations and to make sure that the office of the registrar of the loan and trust corporations and, indeed, of the director of financial institutions within this province is doing the job it should be doing.

11:10 a.m.

Mr. Renwick: Mr. Chairman, I want to be brief. A great deal has been said in a rambling way about the matters that are of concern in reference to this committee. Let me say, first of all, that the report which is before us is the 1979 report. The reason it's the 1979 report and not the 1981 report is that the minister is in default under the rules of the House and has given no reasons to the House for that default.

It's very clear that the minister shall present all reports required by statute within six months of the close of the reporting period unless reasons for delay are given to the House. It's quite obvious that the minister has not seen fit to either table the 1980 and 1981 reports or to give any reasons for that. We have received the apologetic letter of the registrar of loan and trust corporations this morning with respect to his default in providing the impetus to the minister to do so.

I want to speak to the resolution which is before us. If this resolution is passed, it will, of course, foreclose this committee for this session of this parliament from dealing with the report of the registrar of loan and trust corporations.

Some people may have some implication that this is a device which is before the committee to do something which is illegitimate. I want the members of the Conservative Party to understand that if they support this motion this morning they will have precluded this committee from carrying out on behalf of the assembly its responsibility under the statute. I want to be very clear about that.

I make that point because of these reasons. The registrar of loan and trust corporations is the executive director of the financial institutions division of the Ministry of Consumer and Commercial Relations. In that capacity he is a civil servant in the employ of the minister. That is not the capacity in which he is before us, or should be before us, this morning. He is the registrar of loan and trust corporations who is appointed and has a separate status by the Lieutenant Governor in Council for a specific purpose, to discharge the statutory responsibilities which are imposed on him by the statute.

In that sense, sir, he is not responsible to the minister, but the minister must report for him to the House. He is a statutory appointment by the cabinet of this province to be responsible for the administration of the Loan and Trust Corporations Act. That's the first point I want to make.

The second point is that the only way in which this committee can, in fact, deal with the practices and procedures of the registrar of loan and trust corporations is by a reference of this report. The questions which are supposed to be answered in this report are the questions which are uppermost in the minds of the public at this time about loan and trust corporations generally.

One of the preconditions of the concern that people have is to find out the starting point of the negligent, careless and sloppy procedures of the registrar of loan and trust corporations--some people may think those words are too strong--in dealing with loan and trust corporations. I want simply to say to you that for this committee to deny itself the right to hear the registrar state whether or not he has complied with his statutory obligations about loan corporations in his annual report would be to me a very serious default.

Mr. Chairman, I want simply to refer to the provision of the Loan and Trust Corporations Act which deals with the annual report. I am going to read it in extenso with my own particular version of verbal italicization in order that you understand what this report is supposed to contain. I am going to ask you to consider for a moment that we have the 1981 report before us.

Section 150 comprises four subsections. The first one says, "The registrar shall prepare for the minister, from statements filed by the corporations and from any inspection or inquiries made, an annual report, showing particulars of the business of each corporation as ascertained from such statements, inspection and inquiries, and the report shall be printed and published forthwith after completion." May I interpose that the annual report is supposed to reflect for the public the compliance by the registrar with his statutory obligations. That is what the report means to me.

Let me go on to subsection 2: "In the report, the registrar shall allow as assets only such of the investments of the several corporations as are authorized by this act or by their acts of incorporation or by the general acts applicable to such investments." That is what the report is supposed to tell us; that the only assets which appear as investments of the trust corporations and the loan corporations are those which are authorized by law.

I think that is a legitimate question for us to ask with respect to the period up to and including December 31, 1981, if we had those reports. That would at least give us a starting point and a public assurance that up to that point in time the affairs of loan and trust corporations were in order in this province. There is severe concern in the minds of members of the assembly and of the public that that is not so.

Let me go on to subsection 3. "In the report, the registrar shall make all necessary corrections in the annual statements made by the corporations herein provided and is at liberty to increase or diminish the assets or liabilities of the corporations to the true and correct amounts thereof as ascertained by him in the examination of their affairs at the head office or any branch thereof or otherwise."

I interpose again, sir, that this is a statutory obligation which refers to the accountability of the registrar of loan and trust corporations to the public for the compliance with this statute. Surely it is quite proper for this committee, up to

December 31, 1981, to be assured, and through this committee to assure the public, that those corrections have been made, and, if there have been no corrections made, to be satisfied that no corrections were necessary.

Let me, if I may, go on to subsection 4. "If it appears to the registrar or if he has any reason to suppose from the statements prepared and delivered to him by the corporations or otherwise that the value placed by any corporation upon the real estate owned by it, or any parcel thereof, is too great, or that the amount secured by mortgage or hypothec upon any parcel of real estate, together with interest due and accrued thereon is greater than the value of the parcel, or that the parcel is not sufficient for the loan and interest, or that the value of any investments of the funds of the corporation or of its trust funds is less than the amount of the value of the investments shown in the books of the corporation, he may require the corporation to secure an appraisalment of such real estate or other security by one or more competent valuers or he may himself procure such appraisalment at the expense of the corporation, and, if it is made to appear that the value of such real estate or other security held is less the amount at which it is carried on the books of the corporation or is not adequate security for the loan and interest, he may write off such real estate, loan and interest, or investment, a sum sufficient to reduce its book value to such amount as may fairly be realized therefrom, such amount in no case to exceed the appraised value, and may insert such reduced amount in the report."

Now I am saying to this committee that up to December 31, 1981, which is the last annual report that would be obligated under our rules to have been tabled in the House and to be available for consideration, therefore, by the House or a committee of the House, surely that report would allow us by intelligent, advised inquiries of the registrar and by responses of the registrar to be able to assure this committee, the Legislative Assembly of Ontario and the people of the province that as at December 31, 1981, the affairs of the loan and trust corporations in this province had been conducted in accordance with law and that he, the registrar, had carried out his statutory obligations and was able to provide us with that assurance.

11:20 a.m.

That seems to me to be quite simple. That seems to me to be quite straightforward. That seems to me, sir, to raise very serious questions as to whether the motion of my friend, the parliamentary assistant to the Minister of Consumer and Commercial Relations, Mr. Mitchell, who moved this motion, is in order before this committee. The reasons which he states that consideration of the report would not be in the interests of the depositors and the public at this time and, therefore, such consideration should be deferred are referred to in the preamble to his motion, and they are as follows:

"With the Morrison inquiry in progress and various witnesses still to appear and give their evidence under oath..." and that is the first reason he gives. The Morrison inquiry does not deal with

and has no obligation to deal with any matters prior to December 31, 1981. So it is irrelevant to the purposes for which this report is referred to us.

The second reason which he gives is "and with related criminal investigations still in progress," and we have it, sir, because I asked the Solicitor General (Mr. G. W. Taylor) in the assembly about the criminal investigations which may be taking place and he confirmed that the criminal investigations are related to matters subsequent to December 31, 1981. If they are related to matters prior to that date, you, as chairman, have the skill and ability to rule any such questions entirely out of order that might in any way affect that matter.

The third reason that he is giving is that "with the ministry conducting an investigation...." Whatever investigation that might be referring to, I do not know. I do not understand what it is. Certainly they are carrying out a review of their procedures and practices, which raises some question that perhaps questions related to their procedures and practices prior to December 31, 1981, would be appropriate to confirm or otherwise the accuracy of the report of the registrar of loan and trust corporations.

Then he goes on to say "and since there are proceedings before the courts and matters to be placed before the courts and related proceedings before and by the Ontario Securities Commission...." If there is any reference in this committee if necessary to matters subsequent to December 31, 1981, I would expect you, as chairman, to rule those matters out of order if you saw fit to do so. You have that competence and, indeed, that responsibility.

Then he goes on, "and since negotiations relating to the sale of the assets of Crown Trust are under active consideration...." What conceivable reason would that be for precluding this committee from dealing with the registrar's report up to the period ending December 31, 1981? The sale of assets of Crown Trust is apparently under active consideration. There is a government bill before the assembly which will be debated tomorrow, but that is not relevant to the questions of whether or not there has been a discharge by the registrar of his statutory responsibilities which we can only deal with through his annual report, and the only one we can deal with is the latest one, which we should have, that is, up to December 31, 1981.

There are many areas we all would like to get into. There are many areas perhaps subsequent to December 31, 1981, that we would be anxious to deal with. That is not what we are about. There are other forums and other occasions where we trust we will have the opportunity to find out all of the unanswered questions. The unanswered question, however, which prompted this reference to this committee, seeks to find out the starting date of the problems within the loan and trust industry. The only way that we have at our disposal is to deal with the latest report of the registrar of loan and trust corporations, which we should have had, up to and including the periods ending December 31, 1981.

At least that would clear the air in the minds of the public to that point. In a short time we will have the 1982 report because that report will be required to be laid before the assembly, or reasons given, before the end of June 1983. The registrar may want to assure us that for the year 1982, up to the end of 1982, everything was in order so far as he was concerned; or he may want to say to us that the problems arose in the latter half of 1982 and that everything was in order up to June 30, 1982. He may himself want to give the kind of public assurance that is essential.

I want to say to my friends in the Conservative Party very clearly that I have tried to articulate what the statutory report of the registrar is supposed to do. Everyone in this room will see that it is germane to a fundamental question, confidence in the loan and trust industry, and whether that confidence was warranted up to December 31, 1981. It is as far as we can go. I would assume the registrar would want to give us such further and other assurance as he could about that very fundamental question.

My friends in the Tory party have got to understand that this is not a disease which can be isolated by secrecy. It can only be isolated and the disease treated by public information about it.

I assure you, sir, that I have been told by my constituents and others who have been associated with me in the last little while that there is no one, except with particular exceptional reason, walking around with either \$20,000 or \$120,000, who wants to find a place to put that, that will today walk into a trust company in Ontario. You, sir, and the members of the Tory party are underestimating the need for forthright, public, clear questioning and response about the state of the loan and trust industry to the latest date which is available to us under the rules, which is December 31, 1981, or such subsequent date as to which the registrar and the minister, if he chooses to come, could give us that assurance.

I think the public is entitled to that information. The rest of the information will come out, either in a public inquiry forced by public opinion or in dribs and drabs from the ministry over time, or at some remote time down the road when we are engaged in what will then be a relatively academic discussion of the nature and kinds of changes which we should make in the loan and trust industry.

The members of the Tory party are grossly underestimating the impact of the activities of this government, not that they are wrong or incorrect, but that they can only be explained to the public in public and that is the only way in which the public will ever be satisfied.

I ask either my friend the parliamentary assistant to the Minister of Consumer and Commercial Relations to withdraw his motion or--it is not appropriate for me this morning, but I am sure my colleague Mel Swart would be glad to raise the question of

whether or not, in light of my comments and the specific reference which is before us, the motion of the parliamentary assistant is out of order. I think there are cogent and real reasons, which I have expressed, that it is out of order and that it is totally inappropriate and is designed purely to block this committee, and through this committee the public, from obtaining the kind of assurances which the annual reports up to December 31, 1981, and the questioning of the registrar would allow this committee to provide.

11:30 a.m.

Without that this committee will have failed. Once again the assembly will have failed. The failure, the secrecy, the magical mystery tour of the government in this issue will be at the seat of the government and, in this case, at the doorstep of the parliamentary assistant.

Mr. Chairman: Thank you. Mr. Stevenson.

Mr. Stevenson: I have a few comments and certainly some concerns about what has been said here this morning and the sort of inferences that are being drawn. I think it is very clear from the motion that this is only a deferment, and the reasons for it are quite clear. If we follow what has happened recently in the House, I think it safe to say there is no attempt to withhold information.

The first report released yesterday from Woods Gordon brought out some new information on companies. I believe there was Green Door Investments, or something close to that, of which particular company at least not many of us had ever heard before.

Mr. Breithaupt: One wonders what is behind the green door.

Mr. Stevenson: There was a very clear indication of funds that had not yet been found.

I have considerable confidence that these sorts of reports will continue to be released over the not-too-distant future and that the situation, through the Morrison inquiry and the Woods Gordon investigation, and also the investigations by Touche Ross in Greymac and Seaway, will clarify a lot of the unanswered questions.

I mentioned the Touche Ross report. Again, I feel that we are going to receive revealing information, not only on the recent actions of these two companies, but on some of their long-term activities.

There is no question of the sensitivity of this particular issue, not only to the investors who are involved, but also, as has been mentioned, in the whole trust industry. There are a number of opinions on how the issue should be handled, relating to the sensitivity to the whole trust corporation area. The government has chosen one course of action, which it certainly feels is best and one which I also support.

I think it is interesting to look back over what has happened in the last two months and to look at what has occurred in the House and in the committee. It is only two months ago that the Consumer and Commercial Relations estimates were in front of the general government committee. They had been moved from this one because of hearings on another bill.

If we look at the situation that has occurred in the House, on November 16, 19 and 23, Mr. Peterson started asking questions about the involvement of Seaway, Greymac and Crown in the Cadillac Fairview deals. On November 17, in the general government committee, time was spent on the Cadillac Fairview transaction, but essentially all the time in that committee related to the rent controls aspect of the issue. Although there were a few questions about the trust company involvement, they took up a rather small percentage of the time.

The key point I want to mention in this issue is that on November 24, almost two months ago to the day, Mr. Murray Thompson, who is the registrar of the Loan and Trust Corporations Act, was in front of that committee. The committee questioned him and the minister for one and a half hours out of a total of 22 hours for the estimates of that particular ministry.

Mr. Breithaupt: What are you inferring from that?

Mr. Stevenson: I think I am correct in saying that the three trust companies in question were never mentioned in the questioning on that particular day.

Mr. Breithaupt: I must really object to this kind of comment because (inaudible) which this ministry requires.

Mr. Chairman: If you want a point of order, Mr. Breithaupt--

Mr. Breithaupt: It's outside (inaudible) that time, as you well know, and as a result there is only a certain amount of time--

Mr. Chairman: Mr. Breithaupt, are you going on a point of order?

Mr. Breithaupt: Yes, it's a point of order.

Mr. Chairman: Please spell it out exactly.

Mr. Breithaupt: I believe that the member is inadvertently misleading the committee to advise us that because the time is divided in a ministry that has 70 pieces of legislation, there is apparently some lack of interest in any one area. Clearly, every area cannot be discussed in that ministry, as he should well know, in the time that's available. That's why we try to share it fairly.

Mr. Stevenson: Yes, I think it's safe to say that time does have to be divided between the votes, but I am also very aware of what goes on in these estimates and that there usually is very good agreement among the parties on how time is going to be divided. If there happens to be a particularly key area in a ministry, it certainly happens very frequently that a disproportionate amount of time is spent on a particular issue or a particular act that is under the control of that ministry.

I think, without making any sort of inferences here at all, quite clearly this is an area in this ministry that has received some considerable attention over the last two or three years. Certainly on November 24 it was clear that there was an involvement of these three trust companies in this particular deal. I have not checked Hansard, but I think I can find a situation in Hansard where a member of this Legislature has stated that he has known for some months of reports of questionable decisions being made by at least one of these trust companies in mortgage agreements.

Here we have a situation where today we have this particular report in front of us. It was known, or certainly could have been known, on November 24 that these reports had not been filed. There certainly could have been questions raised at that particular time about the involvement of these companies in this particular area and most certainly there could have been questions raised at that time about the activities of these particular companies and certainly the activities of the registrar in controlling the actions of trust companies in general when the issue of the Cadillac Fairview deal was very prominent in our minds at that time.

Mr. Cunningham: So it's all our fault.

Mr. Stevenson: I'm not saying it's anybody's fault.

Mr. Breithaupt: --million dollars in until a month later.

Mr. Stevenson: I'm saying that we have certainly had the opportunity to deal with it. Quite clearly, I think it's safe to say that as members of this Legislature this is not--

Mr. Swart: Point of order.

Mr. Chairman: Point of order, Mr. Swart.

Mr. Swart: I'm sure the member who is making these accusations--

Mr. Stevenson: I'm not making any accusations.

Interjection: Yes, you are.

Mr. Swart: --must recognize that in the estimates we moved a motion to move Cadillac, under the tenancy commission, to the first--and you will recall this, Mr. Chairman--to the

beginning so we could spend time on that. We did spend substantial time on the matter of Cadillac Fairview. The whole issue of the trust companies then had not become public knowledge and there was no disclosure on the part of the government at that time, whether they knew it or not, about the difficulty of the trust companies.

Your remarks are irrelevant.

Mr. Stevenson: There were questions in the House more than a week prior to the time that Murray Thompson appeared in front of that committee. I am not accusing anybody of anything. I have not made accusations. I am simply stating the times at which these things occurred and what occurred in the House and in these committees.

If someone is very sensitive of what they think now they maybe should have done at that time, that's their problem, not mine. I am just simply stating that we had an opportunity as members of this Legislature to deal with the annual reports from the registrar of loan and trust corporations. We had an opportunity to question Mr. Thompson and the minister very thoroughly on the operations of that section of this ministry. Quite clearly, and anyone can go back and check Hansard, no one cared to do it, from any of the three parties.

11:40 a.m.

Mr. Breithaupt: Nothing has happened in two months to change that?

Mr. Cunningham: This is worth framing.

Mr. Swart: You would probably have blocked it then, too.

Mr. Chairman: Order.

Mr. Rae: --put the same question (inaudible) inquiry?

Mr. Stevenson: If there is a coverup here, it's obvious who is negligent and who is trying to make the coverup.

Mr. Chairman: Order, we have been nice and orderly this morning. Can we still keep it that way right through the whole morning?

Mr. Breithaupt: We are being provoked.

Mr. Brandt: We were, as well. We sat quietly during the various comments of the members of the opposition. I think the same courtesy should be extended.

Mr. Chairman: That's correct.

Interjection: Sweeping it under the rug.

Mr. Stevenson: I sit here today and I understand the interest of all members in the depositors in these three companies and indeed in the depositors in all trust companies. Quite

clearly, there are certain other ideas in some people's minds. I understand the frustration of the opposition when they are trying to find some carelessness and negligence and up to this point haven't been able to find any.

Mr. Renwick: It's there; it's happening.

Mr. Cunningham: Where have you been?

Mr. Stevenson: I'm sure it's frustrating for the opposition.

Mr. Renwick: There's no question there is negligence.

Mr. Cunningham: The Ombudsman found it.

Mr. Chairman: Order. You gentlemen have a chance, there are others coming on, to reply to Mr. Stevenson. Would you please let him have his say.

Mr. Cunningham: The receiver found it.

Mr. Stevenson: I'm sure it's frustrating for the opposition to see a government move in a decisive and professional manner and in a very well-planned manner. I think part of the activities at this time relates not only to their concern about what is going on in the ministry but also to the frustrations of not being able to find the red, blue or pink herrings they are looking for.

Mr. Cunningham: What colour is Mr. Clement?

Mr. Conway: Mr. Chairman, it's a pleasure for me to follow the rather eloquent and, I thought, timely and on the mark interventions of my colleagues the members for Kitchener (Mr. Breithaupt) and Riverdale (Mr. Renwick).

I have before me both the reference of January 21, 1983, pursuant to standing order 33, and the motion standing in the name today of the member for Carleton (Mr. Mitchell). I want to say at the outset that it is with some genuine surprise and disappointment that I sit here this morning, as a substituting member on this justice committee, to see the government action in this extremely sensitive and very important matter being led by the member for Carleton who, as my friend from Kitchener pointed out and as has been commented upon by others, is the parliamentary assistant to the minister involved in some, for me, key and central respects--that we have a motion, the practical effect of which is to gag this Legislature in the here and now on this matter of urgent and pressing necessity; that we have a motion placed to this committee by someone of the ministry is extraordinary. It's something from a parliamentary point of view that I think should outrage all members of this House.

The member for Carleton, whatever else he may be, is in this particular respect of the ministry. That for me, as a member of this assembly, makes him a very different actor in this piece.

I personally object in a very strenuous and parliamentary way to a person of the ministry, the parliamentary assistant to the ministry and the minister under question in this respect, coming before a committee of this assembly with a resolution that seeks, in fact, to shut down an inquiry into the operation of that ministry.

I would have expected, and I would have hoped, that if the parliamentary assistant to the Minister of Consumer and Commercial Relations deemed it wise and necessary for his being here today, it would have been to enlighten this committee and, through this committee the people of Ontario, about many of the central issues which concern us all.

I would have expected, and very much appreciated, the member for Carleton, the parliamentary assistant to the minister under review in this instance, to have come to this committee to enlighten us, and not to have presented us with a resolution which stands more in the name of partisan obscurantism to shut down the inquiry, to keep out the light of public scrutiny for and from something that materially affects all of this assembly and, of course, the entirety of the province.

I want to say to my colleague the honourable member for Carleton that he ought not to underestimate the measure of my personal disappointment that he has, in my humble estimation, so violated my appreciation of the best tenets in the British parliamentary tradition. I would submit that any Legislature worth its salt would not tolerate this resolution for one moment, standing, as it does, in the name of the parliamentary assistant.

I want to indicate that I have not had the experience that other members have had, and I cite particularly my friend from Wentworth North and my friend from Welland-Thorold, who have had a far more in-depth involvement with the activities of this Legislature through, I believe in most cases, this committee with this entire business of the loan and trust corporations field. However, I sat yesterday afternoon in the office of the Leader of the Opposition and I listened very carefully for something in the order of 60 minutes to Mr. Jack Biddell, who is acting in a very senior capacity in this respect. I know the public press today is full of a number of revelations that developed as a result of that encounter and as a result of what was introduced by the Minister of Consumer and Commercial Relations in the House yesterday afternoon.

I want to tell you, Mr. Chairman, and through you the people of Ontario, that what I heard from Mr. Jack Biddell yesterday deepened my suspicion and heightened my anger. It is, of course, that concern that brings me here today in my capacity as a member of this assembly, representing hundreds of people in the Ottawa Valley who find themselves very much disadvantaged as a result of this latest chapter in a long, lurid, tragic history of many chapters in respect of this particular area of our provincial jurisdiction.

I might be prepared to be a lot more tolerant of the intervention of the member for Durham-York (Mr. Stevenson) if I did not know that the book we are here to survey today is a book of so many chapters--and I am going to talk very briefly about some of those chapters and some of that sordid and sad history, all of which has developed in the latter half of the great Tory hegemony in this province.

I look across the way today and I see six members of the government of the day, and I am struck by their makeup; I am struck by not so much who is here but who is not here. I am struck, for example, that Mr. George Kerr, the member for Burlington South, is not here. I am struck, for example, by the fact that Mr. John Lane, the member for Algoma-Manitoulin, is not here. I am struck by the fact that Mr. Bob Eaton, the member for Middlesex, is not here. Not one member of this assembly currently sitting of the government caucus who served prior to the 1981 election in this whole matter of the loan and trust company matter is here.

Mr. Renwick: Don't forget James Taylor.

11:50 a.m.

Mr. Conway: The member for Riverdale points out that the former Minister of Energy, the current member for Prince Edward-Lennox, who also had some participation, is not here.

Mr. Stevenson: On a point of order, Mr. Chairman.

Mr. Chairman: Point of order, Mr. Stevenson.

Mr. Stevenson: I would like to make it very clear that these are the regular members of this committee that have been on this committee since last spring. There are no substitutions.

Mr. Rae: It's nice to see you all here.

Interjections.

Mr. Stevenson: I'm not really sure what he is trying to infer, but quite clearly there were a great group of new members elected in the Tory party in 1981.

Mr. Watson: On a point of privilege, Mr. Chairman.

Mr. Chairman: Mr. Watson, point of privilege.

Mr. Watson: I'm sure the honourable member would not want to overlook the fact that I have come through two elections.

Mr. Conway: What you have come through I do not wish to discuss publicly.

Mr. Watson: You inferred that everybody here was elected in 1981 for the first time, and that is not true.

Mr. Chairman: I must say, Mr. Watson, I think he did have an addendum at the end of his sentence referring to those members having previously been in this field.

Mr. Conway: I appreciate that, Mr. Chairman. I think I owe the honourable members of the Conservative caucus a little further explanation.

Mr. Piché: Or an apology.

Mr. Conway: I think it's important for me to paint a little more of the landscape of this sordid situation. I note with some interest the absence of the member for Burlington South (Mr. Kerr), the former Solicitor General, from these hearings because I note with particular interest what he said to the Hamilton Spectator in the heat of the day.

Let me quote the honourable member for Burlington South from the Hamilton Spectator of March 4, 1981, referring to this whole business: "'You haven't had so many people within the ministry admitting some mistakes,' the Burlington South MLA said. 'The government obviously has to look at its laws so that similar situations will never happen again, and it has to do a lot of housecleaning in the Ministry of Consumer and Commercial Relations. The government also has to create some type of new apparatus to compensate people when similar situations do happen,' he said. 'For that reason, the justice committee should be allowed to finish its work and make a proper report after the election,' said Mr. Kerr."

I have a lot of respect for the member for Burlington South who sat through the trial that was the experience for those members in that area with the Astra/Re-Mor affair. I think about other members who were here and played a far more influential role than I. My good friend and former colleague, the former member for Lincoln, Mr. Hall, sat through many long days in January 1981 trying to sort out the situation that so negatively impacted on many of the people he represented. He is not here today, nor is the former member for Hamilton Centre, Mr. Davison, who played a part in that, because, of course, we were all swept away into the great electoral happening of February and March 1981, an election which, as has been indicated earlier by members opposite, brought a substantial number of new members here today.

I hope they came to this committee today mindful of the commitment that brought them here to keep the promise. I hope there is someone across this way today who is prepared to keep the promise, presumably made in good faith, made by the member for Burlington South that day in March 1981. I think that's an important matter to put on the record.

I was struck the other day by a piece that appeared under the byline of Joan Walters from Canadian Press. In a rather lengthy article, Ms. Walters set out in rather, I thought, delicate detail the history of the financial institutions in Ontario since 1964. I know the good doctor, the member for

Durham-York (Mr. Stevenson), will want to know and will want to hasten home to tell the people of his region that under the very capable stewardship of William Davis and John Robarts before him and under the capable stewardship of Leslie Rowntree and Gordon Walker and now Dr. Robert Elgie thousands of people in this province have lost at least \$150 million in the five principal scams which were, for his edification, the Prudential Financial Corp., British Mortgage and Trust, Atlantic Acceptance Corp., the Argosy Financial Group and, of course, the famous Astra/Re-Mor matter.

Mr. Cunningham: And Co-operative Health Services of Ontario.

Mr. Conway: My friend from Wentworth North indicates a sixth. I will not bother the good doctor, the member for Durham-York, about a local scam that has left hundreds of people in the Ottawa Valley in a situation of having been ripped off in a way that does not, in our part of the world, inspire great confidence in what the regulatory arm of this ministry has been doing.

I can share one little personal experience about the regulatory arm of this ministry. It was about a year ago that I was invited to sit on on a hearing which affected the regulation of the ministry, particularly the regulation of the Liquor Licence Board of Ontario. Not to make too much of that, Mr. Chairman, I just want to indicate, because some of the members opposite might not have been here to participate in that lovely little episode, that we were treated to the happy spectacle of a minister of the crown--at the time, I think it was the member for Scarborough Centre, Mr. Frank Drea, as the minister responsible for that particular agency. Worried about some of the carrying on, he organized and dispatched a ministerial investigator to the liquor licence board to see that all was well, only to have the agency under review by the ministry fire the investigator that was sent to clean up the situation. It was very much the sort of experience that creates endless confidence in those of us who are not particularly involved with the regulatory capacity of the Ministry of Consumer and Commercial Relations!

The member for Durham-York, as does the parliamentary assistant, invites members opposite to be less hurried, to be more careful, more prudent, to await the X number of inquiries that are currently underway. One wonders what these current inquiries can tell us, quite frankly, that the most of proceeding inquiries has not already writ large in the annals of Ontario's royal commission history.

The 1965 royal commission concluded, for example, that the Ontario government failed to protect itself and its citizenry against "criminal ingenuity." I will tell you, as I listened to Mr. Jack Biddell yesterday, I kept thinking about what had changed in the intervening 18 years.

Mr. Breithaupt: We have floppy discs now.

Mr. Conway: We have floppy discs and, I tell you, for the edification of members opposite, we have the stated commitments of previous ministers, and I think particularly of Mr. Gordon Walker, that these things would not happen again because new systems along the lines of the description given by my friend from Wentworth North were now in place. That was two years ago. Did we err, I ask my friends from Sarnia (Mr. Brandt), Parry Sound (Mr. Eves), Cochrane North (Mr. Piché), Durham-York (Mr. Stevenson) and the parliamentary assistant and, yes, the member for Chatham-Kent (Mr. Watson)? Was our big mistake trusting you and Gordon Walker two years ago? Is that the situation that now explains our dilemma? Is that the mistake we made?

We believed when we should have been a lot more sceptical. We should never have accepted, if this is what you are suggesting, the encouragement and the statements of the then minister that this was all cleaned up and would not happen again and, I might add, happened again with some of the principals of the previous fiasco showing up, however parenthetically, in this case. I must tell you that it does not warm the hearts of the people I represent in the Ottawa valley to see a former minister of the crown, a former minister of financial institutions, a former Attorney General, swimming around in this cesspool of trust and loan scams.

12 noon

There may be a very good explanation which the parliamentary assistant, acting in his ministerial capacity, would want to share with us and the people of Ontario, but I want to tell you, in a business that turns, as the member for Riverdale (Mr. Renwick) said so well and so succinctly, on public confidence and on public trust, to see a former Attorney General, the former minister of financial institutions, acting in some peculiar capacity in these matters does very little indeed to encourage public confidence in the loan and trust business in this province.

As I said, it was interesting to look at the Walters' article which reviewed the history that has brought us to this particular point in time. It was interesting to read, for example, her comment that British Mortgage was rescued just short of failure by amalgamation with Victoria and Grey Trust, quoting the royal commission, "but on terms which left its shareholders impoverished." Does some of that sound familiar? Is there a sense of déjà vu perhaps for the victims of the current seizures at Crown, Greymac and Seaway? It is as though the royal commission report, written 18 years ago, could have been written two days ago. The phrases are almost transferrable. The criminal ingenuity spoken of sounds as if it might just be applicable if one were to credit any of what Mr. Biddell was saying or leaving by virtue of implication.

I was very much impressed to see in the CP story an unnamed aide to the current minister saying: "When you add it all up, the institutions"--meaning the financial institutions that have to be looked at and regulated--"our record has been pretty good." Well, that may be the view of the people whose responsibility it is to

protect us, but I have to tell you that an awful lot of people, and many of them whom I have never met before and some of whom I know are active supporters of the party opposite, are not feeling very confident about your stewardship.

In fact, there is an anger rising in the community about just how many of these scams we have to have before there is some action of a meaningful and comprehensive kind. The member for Riverdale (Mr. Renwick), as did the Leader of the Opposition (Mr. Peterson) a few days ago, pointed out very specific and positive duties that devolve to the minister and, through the minister, to the registrar of the loan and trust corporation section that have clearly not been adhered to or lived up to or fully discharged.

As I say, if it were against some kind of tabula rasa, some kind of white sheet of innocence, that all of this was happening, I might be prepared to give the member for Durham-York (Mr. Stevenson) some latitude. But, quite frankly, I wonder sometimes why the people of this province are not out stoning the ministry and its political supporters for the kind of maladministration, for what seems to many of us as a breach of faith and a breach of trust.

I cannot say it more eloquently than did the former Solicitor General in March 1981. We all know that there is one hell of a lot more. We have known it for some time, and what are we told here this morning from the parliamentary assistant to the ministry under this very close and careful scrutiny? Well, parliament really ought not to have a look. Not a word must be spoken. I want to put it again in terms of the parliamentary world in which we find ourselves. On December 21 or 22 we were told by the Premier (Mr. Davis) himself, who, I note, these days seems to be somewhat jocular about some of these things in the House, that we needed these exceptional amendments to the relevant legislation that gives this government the right to take over.

Mr. Breithaupt: We could hardly have asked questions on that in November, could we?

Mr. Conway: Precisely. One wonders how it is that members opposite ever expected that we would have anticipated that kind of Draconian requirement on the basis of what was in the public domain. We were asked to buy, literally, a pig in a poke, and we acceded, perhaps in retrospect too quickly and perhaps without sufficient scrutiny.

It has angered me personally in recent days to have our noses literally rubbed in it by certain members of the executive council opposite our seats in the House for having been so agreeable on that occasion.

Mr. Brandt: You were complimented. That is not taken in context.

Mr. Conway: I shall take you to some references that are decidedly less than complimentary in that respect.

Mr. Brandt: Both parties were complimented by the minister, you know that.

Then, on the night of January 7, we had the seizure. Quite frankly, most of us expected once the legislation was passed that it would be acted upon. That is quite a remarkable set of circumstances. Then a few days ago, I guess on Monday of this week, we had the truly exceptional piece of legislation, Bill 215, An Act respecting the Crown Trust Co.

Again we are asked to buy a pig in a poke. Again we are asked to take the minister at his word. Again we are asked, as even the government member spoken of by the member for Kitchener earlier in his remarks said, to act in blind faith--indeed, yet again, so are the people of this province.

We are expected to take on blind faith the advice and good counsel of people who have screwed us repeatedly in this respect, people who by virtue of their dereliction and maladministration have not got, in my humble estimation, a very large reservoir of goodwill on which to operate and function.

Interjection.

Mr. Conway: Of course, there can be absolutely no doubt of the fact that we are, with respect to Bill 215, between a rock and a hard place.

There has been a lot said in recent days about, "Well, maybe we should not worry because ultimately there is the insurance of the Canada Deposit Insurance Corp." One of the interesting exchanges I happened to have with Mr. Biddell yesterday confirmed in my mind that if there is a substantial draw-down on CDIC, it probably is going to mean that we all pay, that the treasury of the Dominion of Canada will be forced to ante up for the kind of maladministration that has been effected and that has been pointed to in this jurisdiction for 10, these many years. I talk specifically about these many years, starting at least with 1964 and 1965.

I do not take any particular solace in a global sense about what kind of protection the CDIC is ultimately going to offer because I have a feeling that we are all going to pay if a major draw-down on those reserves is required.

As has been commented upon here today, it seems like a relatively small item perhaps, but the letter from the registrar dated January 26, is just yet another indication, at this late date, about how apparently confused and inept that operation appears.

I am really left somewhat--

Mr. Swart: Speechless?

Interjections.

Mr. Conway: Yes, I am left somewhat speechless by the whole business to which this letter speaks.

Let me just say that I understand that today the Financial Post will appear on the streets of this province with a report that on October 29 the registrar of loan and trust corporations changed the licensing of Greymac Trust from a monthly to an annual status--that on October 29.

Mr. Breithaupt: It is our fault because we did not ask questions.

Mr. Conway: I suppose that is going to be associated with our difficulties.

Can you imagine? There may be substantially more to that story before it is completed. One wonders, however, what particular information was the registrar in possession of on October 29 that he would make such a change in the provisions of the licensing of one of the principals in this particular situation.

12:10 p.m.

It reminds one, back some years ago, of the licensing of Re-Mor, that Ontario licensed Re-Mor Investments as a provincial mortgage broker some 13 days after the Ontario Supreme Court ordered an affiliated firm, C and M Financial Consultants Ltd., into receivership. Just days after an indication that there is serious trouble, we have the regulator going forward in a positive fashion, and one certainly wonders why.

There are a number of questions that deserve the immediate attention of this assembly. I particularly liked the time line the member for Riverdale focused on. The questions I want to have answered are the questions specifically relating to the conduct of the minister or the ministers, but probably we are talking about just one minister in the period involved, during 1980-81.

What was the nature of their conduct? I want to know specifically what was the conduct of the regulators. I want to know who is over there, how qualified they are, what specifically they are doing. I want to know what they think about any legislative or regulatory deficiencies that might encumber them or that have encumbered them.

I think these are perfectly valid questions. Along with trying to satisfy the very legitimate concerns set before the public in March 1981 by no less a person than a former Solicitor General of this province, the public has a right to know specifically of what undertakings and what initiatives have been followed through as a result of commitments made by ministers of the crown in the last round of difficulty in this whole area.

I do not think that is in any way an untoward business for this assembly. I cannot believe that the member for Sarnia (Mr. Brandt), for example, would not want to satisfy himself and the thousands of people he represents that the government was as good

as Gordon Walker's word and that new systems were put in place. I don't see any fear, I see less harm, in taking this legislative committee into that very important area of its legitimate responsibility.

So I have to think, upon reflection, that the parliamentary assistant will want to withdraw his motion or, failing that, he will want to see to it that sufficient members of his group withdraw elsewhere to allow this particular interest and concern of the committee members to proceed.

I say in conclusion that I believe we have to satisfy the people of Ontario that there is some trust left in their trust business, that there is a sufficiently well organized and properly directed regulator to instill some confidence in their future depositing with this particular sector. If this Legislature through this committee does not proceed in an orderly fashion to satisfy that public interest, an extremely legitimate and very important one, I think this assembly will have failed in one of the most important discharges of its parliamentary function.

Mr. Rae: I really think that the question has to be focused and the government members have to understand the nature of our objection to the motion Mr. Mitchell has put before us. It goes back to perhaps the oldest question in democracy, one of the Latin tags which is worth remembering. "Who will guard the guardians?" is the central question we are asking to be dealt with by this committee with respect to the work of the registrar and the work of the ministry.

In all the statements that have been made here by Mr. Mitchell when he says "...with the Morrison inquiry in progress and various witnesses still to appear and give their evidence under oath..." there is nothing to do with the conduct of the minister, nothing to do with the registrar. There is nothing at all to do with that. "...and with related criminal investigations still in progress..." We can only assume that they are not talking about charging Mr. Thompson or charging Dr. Elgie. They are talking about charging somebody else, so that doesn't include the ministry. "...with the ministry conducting an investigation..." Into what? Into itself?

"...and since there are proceedings before the courts and matters expected to be placed before the courts"--that has nothing to do with the work of the registrar; nothing to do with the work of the ministry--"and related proceedings before and by the Ontario Securities Commission." Again, that has nothing to do with the registrar with respect to the reports that we are going to be asking questions about. "...and since negotiations relating to the sale of the assets of Crown Trust are under active consideration..." Again, that has nothing to do with the specifics of the report that is before us and with the reports that we expect to have before us.

There is a question that remains unanswered and a problem that remains unaddressed anywhere in the whole set of inquiries

that has been set under way by the minister. In all the discussions that have been set under way and mentioned by Mr. Mitchell, there is no mention, there is no consideration of the central question--at least a central question, that is to say, when did the registrar know what he knew, when did the ministry know what they knew and what did they do about it? Why didn't they do more about it and why has it taken this long for the public to be receiving the modicum of protection that it is now receiving from this government?

In addition to the references that have been made by Mr. Renwick to section 150, I want to refer the committee to other sections of the Loan and Trust Corporations Act which confer a particular duty, a special responsibility upon the minister and upon the registrar.

I think we are at least entitled to say that if you look at subsection 150(4) and recognize that the problem of valuation is supposed to be addressed directly by the registrar, we are at least entitled to ask whether at any other time prior to the publicity surrounding these events, the registrar was concerned at all about the valuation of any mortgage or the valuation of any property which was the subject of a mortgage that was held by a trust corporation, or any of the trust corporations that have been involved in this particular transaction, or other trust corporations.

Look at the particular responsibilities that are laid before the registrar. I quote section 154, for example: "The registrar"--personally--"shall visit or cause a duly qualified member of his staff to visit at least annually the head office of each registered corporation and he shall inspect and examine the statements of the conditions and affairs of each corporation and make such inquiries as are necessary to ascertain its condition and ability to provide for the payment of its liabilities as and when they become due, and whether it has complied with this act and the registrar shall report thereon to the minister as to all matters requiring his attention and his decision."

I should like to be able to cross-examine the registrar, and I think we should be entitled to cross-examine the registrar and simply ask him who it is from his staff who went in to see the books at Seaway; who is it on his staff who went in to see the books at Greymac; what questions did they ask and were they satisfied at all times that with every single mortgage and with every single asset that they examined, that the valuation with respect to those assets and the valuation with respect to those mortgages was entirely proper, was entirely such as to satisfy their confidence and to satisfy their very strict statutory duty which is laid down by this statute?

I think we are entitled to an answer to that question. If, as the minister has suggested in his published remarks, the problem of valuation is central to this whole question; if, as we know, the problem of valuation is central to the problems that are affecting Crown Trust, and Woods Gordon told us that; and if, as we know from the statement of the minister, that the problem of

valuation of property is central to the state of health of Greymac and Seaway, surely we are entitled to an answer to the question: "Were you concerned about value at any time prior to 1982, and if so when? What reports did you file with the minister? Which floppy discs did you have to deal with this problem? Which red flags did you have with this problem and how did you respond to the problem?"

Surely members of this legislature are entitled to ask those questions. There is no inquiry under way to answer those questions. Mr. Morrison is not asking those questions. There is no evidence to suggest that Mr. Morrison is cross-examining witnesses from the ministry, or that any criminal investigations are under way with respect to the ministry, or that the Ontario Securities Commission is examining and questioning the ministry with respect to these reports.

I think we are entitled to know how Seaway Trust grew from a tiny little company--in this report dated 1979, it had a total income of \$446,000 and total expenses of \$459,000, leading to a loss of \$13,594--to a company which now allegedly has assets of over \$300 million. Mr. Markle, the owner of the numbered company which is the owner of the vast majority of shares of Seaway, was able to declare for himself a dividend of over \$1 million in 1982.

Look through the Loan and Trust Corporations Act very carefully, and look at the statutory responsibilities of the registrar. Look also at the minister's own statement on December 21, when he went into his long soliloquy on the problems of value and valuation.

On the basis of that, and on the basis of a very simple common sense judgement, other trust companies that were competing with Seaway and Greymac for trust business must have been concerned that they were able--on the basis of the same rules and regulations as applied to every other trust company--to offer larger mortgages at better rates.

Perhaps those trust companies filed some complaints with the ministry and the registrar. Perhaps there were some other questions that were tagged, flagged, looked at and questioned by the ministry and by the registrar. Perhaps there is correspondence, internal memoranda or information passing to and from the minister.

How was the minister briefed when he first took over? Was he warned about this? What about the so-called supplementary list of people that Mr. Walker referred to? All of these questions have not been asked by Mr. Morrison, by the Ontario Securities Commission or by a criminal investigation. They are not before the courts in any way, shape or form. They can only be decided and discussed by this committee or by a committee which has the responsibility for cross-examining politicians like the Minister of Consumer and Commercial Relations, his agents and the officials of the crown who are responsible to this Legislature.

That is why I come back to my basic point. The question this committee is deciding today is the fundamental question of democracy: What is the accountability of government? Who will

guard the guardians? Who will have the ability to ask those questions?

If this parliamentary assistant on this motion and those members of the government side decide that this committee cannot discuss it, then we are involved in a gagging measure which is preventing us from doing our job of protecting the public from the government and protecting the government from the possible negligence of government.

I think it is time the government fessed up to the fact that the courts, the Ontario Securities Commission and Mr. Morrison are going to be involved. For all I know, there may need to be a wider and broader public inquiry, but I also know there is a question of political, legal and statutory responsibility and accountability. I do not think this committee should be gagged and prevented from doing its job in dealing with that question.

We can only assume the intention of the motion by Mr. Mitchell, the parliamentary assistant to the minister, acting on behalf of the minister and the government in this regard, is to prevent us from asking the difficult questions about accountability and responsibility. I think it is a damned disgrace when that kind of thing happens. We have a job to do and we are prevented from doing it by the government members when they put this kind of motion before us.

Mr. Swart: I would like to move that the resolution be--

Mr. Chairman: There is a motion on the floor.

Mr. Swart: That is an amendment. You can amend a motion.

Mr. Chairman: Yes.

Mr. Swart moves that the resolution before this committee be amended to remove the word "not" from the second line in the final paragraph of the resolution, and add the following words at the end of that paragraph: "only until Friday, January 28, 1983, when the Honourable Robert Elgie, Minister of Consumer and Commercial Relations, and Mr. Murray Thompson, QC, the executive director of financial institutions and registrar of loan and trust corporations of the Ministry of Consumer and Commercial Relations, shall be invited to appear and answer questions arising out of the annual report."

The amended resolution would read:

"...consideration of the report of the registrar of loan and trust corporations by this committee would be in the interests of the depositors and the public at this time and therefore such consideration be deferred only until Friday, January 28, 1983," etc.

Mr. Breithaupt: I would like to speak to that motion.

Mr. Chairman: I am prepared to rule. The amendment is in order. Do you want to say anything more about it, Mr. Swart?

Mr. Swart: Yes. I am going to be very brief. I think the resolution, the amendment, is self-explanatory. During the debate we have had so far today, the arguments put forward by my leader, by the member for Riverdale, the member for Kitchener and others, have been very appropriate. They have shown the need for this kind of a questioning of the minister and of the registrar of the loan and trust companies. There are all kinds of issues before us that need to be answered even before we proceed with the bill to authorize the sale of Crown Trust that is before us in the Legislature.

We need to determine the degree of negligence of the ministry and the registrar of loan and trust corporations. We need to know the reasons, to this date--because there seem to be substantial ones otherwise--for not finding out the owners of these numbered companies. The ministry could do this by bringing in special legislation if it wanted to.

We want to know, and we need to know, before this company goes up for sale, whether it is possible to unravel and to go back to square one or square two and recover the money there so the public knows, one way or another, whether the depositors, the insurance company or the public generally will have to make up this \$125 million or \$200 million.

We have to know why there is an urgent need for the sale. What alternatives are there? Should there be a government operation of this for a time and a government guarantee rather than rushing into a sale? We need to know whether senior people in trust companies, being also senior people in the Conservative Party, have had any influence over the decisions that are being made and which are proposed.

All of these things are urgent; the answers to these questions are relevant to this issue. There are things we need to know and there are things the public needs to know. By passing this amendment, it will be easier to find out about these matters.

Mr. Breithaupt: This morning a number of members, particularly in the opposition parties, discussed the framework and background by which this report has come before the committee, and the purposes for which we are here. We have seen the 1980 report which, although not tabled in the Legislature, apparently is printed and available. That too will give us some further information.

12:30 p.m.

We know Bill 215 will be debated Thursday afternoon and evening, and it may take even more time than that. This committee usually sits on Friday mornings. We could use those two hours on Friday after routine proceedings to receive answers to a number of the points that have been raised. We would be able, at that time, to have reports made to us by the registrar as to the names and background of the directors of these companies and other details of information which would clearly be public and not have any influence on the investigations of the activities which are now under way.

The motion Mr. Mitchell has made refers to a number of other procedures. It would not be my wish, as a member of this committee, to in any way compromise those procedures. We can, however, add to the sum total of human knowledge on this particular issue by having the registrar appear before us, albeit for an hour or two, to answer questions on names and reports which have been referred to earlier.

We can sit on Friday morning. The matters we want to look at can be clearly asked and, it is to be hoped, immediately and easily answered. If there are matters that cannot be answered because of ongoing discussions, then the registrar or the minister, depending on whether it is a legal or a political decision, can make those statements within their responsibility.

They will have to live with the consequences, if it is found that matters need not have been so reserved. However, that is their responsibility, and I am sure they will attend to it properly and appropriately. The various points that have been raised by the opposition members of this committee this morning can, to a great extent, be readily and easily answered if we have the opportunity.

Indeed, the provision of those answers need not in any way compromise any of the other events which are going on. If it is found that this amendment is not acceptable to the members of the committee, then I look forward to hearing from them, particularly the member for Durham-York (Mr. Stevenson), as to whether this is an adjournment. We will have the opportunity to discuss all of these themes when the Legislature is not sitting.

If he is readily available and interested in committing his colleagues, with the support of the opposition, to have two or three weeks of hearings on these themes, in February or early March, that might be a reason for us not to proceed.

However, in the absence of the expectation where this committee would decide to go ahead and really look into the mechanicals of the operation of the loan and trust responsibilities in Ontario, I would hope the government members of the committee would at least allow two hours or so of hearings on Friday morning.

I don't know whether that is Morley or Lenny on the phone, but I presume the Premier (Mr. Davis) will continue just to put them on hold.

Mr. Cunningham: Aren't you glad there isn't another brother?

Mr. Brandt: He's waiting right outside the door.

Mr. Breithaupt: Well, he won't be calling for me.

In any event, I hope this amendment will at least be acceptable so that we will have some, albeit guarded, opportunity to discuss the operation, the systems that are in place or have

not been successful and what is to be done to make sure that they are improved upon.

We have that opportunity and it would not, in any event or any wise, delay what is going on in other places. It would not delay or compromise in any way the discussion of Bill 215. It would be an opportunity for us to receive immediate information from a public servant in a manner that is not available to us in the Legislature.

We, of course, know that we can only speak on one occasion during the second reading debate. The minister has the opportunity to sum up as he sees fit and to comment upon suggestions made by the opposition during that debate on principle. There is no opportunity, in effect, in any debate in the Legislature, to in fact have a debate.

That is the last thing this Legislature, or I suppose any legislature, is ever able to do. We never have an exchange of views. We have only a series of set-piece statements and then some summation from the minister who may or may not comment on whatever was said by any other member in the House.

It certainly gives no opportunity, except in the passage of hurried, scribbled notes, for the minister's advisers, for senior civil servants to be involved in the play as it goes on. So we would have that opportunity to have the registrar before us on Friday morning, and the minister, of course, and perhaps even the parliamentary assistant as well, to grace the chairs beside the Chairman and as a result deal with the comments and questions and answers as they see fit.

I hope we have that opportunity, and I would commend this amendment to the members of the committee so that we can get on with doing the only thing we can do in this matter, and that is to look to the situation with the hopes of improving what appears to be a very difficult, unfortunate and discouraging operation that has gone on in this province for some years.

Mr. Brandt: I listened to the comments made by the members of the opposition with some interest. The comment that we have to focus on a central issue in this particular discussion--with respect to how we are to deal with this very sensitive matter--may appear to be somewhat different, depending on which side of the fence you happen to be sitting on politically.

I agree there is a central issue, and I would like to focus on what I see as the central issue. From my perspective that is the protection of the depositors and those people who have invested moneys in the companies that are under discussion here this morning.

Mr. Chairman: Mr. Brandt, I have you next on the list to speak to the amendment.

Mr. Brandt: I am speaking to the amendment.

Mr. Chairman: Yes, indeed. You are coming up on the main motion.

Mr. Brandt: I'm speaking to the amendment now. The reason that I have to disagree with the amendment is because of the approach I take with respect to the need for the members of this committee to protect those very investors and depositors. The suggestion that we put into a very tight and focused time frame--what I am going to suggest is a method by which we are protecting depositors, if the members of the opposition will allow me. The amendment does suggest a very specific time frame which I take exception to.

The motion--the main body of the motion proposed by my colleague, the parliamentary assistant--leaves it somewhat more open, but I would suggest that it does not in any way muzzle this particular committee nor does it attempt to stonewall the issue, which is the kind of rhetoric we've been getting from the other side. What it talks about is that the matter be deferred. I would like to focus on the reasons, the justification and the appropriateness of a deferral at this particular time.

The minister has attempted in the House to share with the members of the opposition, in two ways, both with respect to direct responses to questions raised by the leaders of the two parties in particular, but also by invitation to the two parties to attend confidential discussions to give them the appropriate background on this particular issue.

12:40 p.m.

I've found that it was rather interesting, if I may use that term, that the leader of the third party turned down that particular opportunity to hear what the minister had to say in connection with the difficulties of this particular issue. The interesting part of it was that you were not, or appeared not to be, in any way interested in receiving the very information that might have made the discussion this morning less than necessary.

Mr. Renwick: What part of public business do you transact in private?

Mr. Brandt: I want to say to you that there are many parts of public business that are dealt with in private in the time frame. It's the time frame.

Mr. Swart: Especially if it is embarrassing to the government.

Mr. Brandt: It is not a question of embarrassment to the government, it is a question of protecting the interests of the people who have invested moneys in these particular companies. Now surely the members of the opposition parties can come to grips with the reality that we have a company that is up for sale at the present time, namely Crown Trust.

Mr. Swart: We don't know why.

Mr. Brandt: You have already referred to it a number of times in the remarks you've made. If it was possible to deal with this report in isolation from certain other issues--and there were earlier speakers who indicated that that was done in connection with the Astra/Re-Mor matter--then I would be less uncomfortable about dealing with the matter now.

But the remarks that have been made, some of the questions that it was suggested could be raised with the minister or with Mr. Thompson, and the entire tenor of what was being proposed by some of the members opposite would suggest to me that there is no possibility whatever that we could carry out some kind of a narrow focus on this report only without the whole thing flopping over to a much wider, much more sensitive and difficult discussion only at this time.

Mr. Swart: You are repeating Williams' speech word for word.

Mr. Chairman: A point of order.

Mr. Spensieri: The members on this side gave all the members opposite all due consideration when they were speaking. I do not recall many interruptions, and I think the same courtesy should be shown the member for Sarnia.

Mr. Brandt: At the present time, and I would like to underline those particular words, at the present time, there are investigations and inquiries that are going on that will bring out many of the questions that have been raised by the members. However, I would suggest to you that it is totally inappropriate, again, in the interests of those people who have their money invested in these companies for members of the opposition parties to raise questions that might very well paint a picture of lack of confidence in the companies prematurely and unnecessarily.

We know full well that in the entire financial community at this time there is--not only with respect to trust companies, but with respect to the International Monetary Fund, the international banking community--a lack of confidence as a result of the economic difficulties we are going through now. I would suggest to you that anything that might be said--such as the kind of inappropriate comment that was made by a member of the Legislature of British Columbia in the form of a negative reference to a particular bank, causing, I might add, a run on the assets of that bank for a short period of time--would not be in the best interests of the people you are allegedly supposed to be serving.

Now the member for Renfrew North made the comment that the member from Sarnia, myself, should be interested in serving the best interests of the people who elected him to this Legislature to look after their particular interests. I would like to suggest to you at this time that I have confidence that the minister is proceeding expeditiously with this matter, that he is proceeding sensitively and that he is attempting to resolve the issue in a forthright and responsible way.

I would assure you if any of the members opposite were

sitting in his chair, and in his position at this time, they would not be able to disclose each and every element of information that came to his attention. He has been refusing to answer, as the member for Kitchener well knows, and there are questions that he is unable to answer.

He has attempted to share with the two opposition parties, in a confidential way. I understand that the Liberal Party have agreed to sit and listen with the minister on these confidential discussions to indicate the fact that they are prepared to go along with the minister at least at this time, But the members of the third party have not. If that is not correct then clarify it.

Mr. Cunningham: The meeting we had yesterday was in no way confidential. It was not. Everything that was put on the record was something that the minister should and could have told us in the House.

Mr. Brandt: That is your opinion.

Mr. Cunningham: Do you think Mr. Biddell is not telling us the truth?

Mr. Brandt: The minister has a responsibility at this time to protect the interests of the shareholders, the depositors, and those people who have money invested in those companies. You would be the very ones who would accuse the minister of acting irresponsibly if he were to in some way prematurely release information that would be detrimental to the very companies you are talking about protecting.

The only way in which this matter can be unravelled and the only way in which it can be responsibly dealt with is to allow the minister a reasonable period of time to proceed with the inquiry, to proceed with the investigations that are going on, and to bring the information to the members of the Legislature at the appropriate time. To do so before the matters can be appropriately dealt with by the ministry, in my view, would simply be inappropriate.

Mr. Breithaupt: He has already taken the companies over.

Mr. Brandt: For this reason I cannot support the amendment proposed by Mr. Swart. I could support it if the time frame were left somewhat more flexible.

I can support the motion of my colleague, the parliamentary assistant to the minister, only because it talks in terms of deferring the matter for an indeterminate period of time until some of these questions can be dealt with by the ministry, and at that time all of the information you are looking for will come out and that would be the appropriate time for you to act as a--

If the interests of the depositors are not in fact protected as a result of the exercise we are going through now, if there are losses of money that take place as a result of some improprieties on the part of the ministry, then I will be the first one to join with you to see that there is a cleanout of that particular

ministry. But I cannot do that now, in the interests of protecting the very people you have forgotten about.

Obviously you are interested only in the partisan aspects of this issue. You are not interested in the protection of people, you are interested in politics.

I take exception to that, because there are multi-millions of dollars involved and if you take a look at the actions of the minister as he has gone through the various stages and the various steps of this very difficult and complex matter he has dealt with the protection of the tenants, of the buildings that were involved in the initial sales and the subsequent flips, he has dealt with that matter, not to the full and complete satisfaction of the third party, or the members of Her Majesty's official opposition, but quite frankly he has dealt with it in a manner that I believe satisfies the vast majority of the people of this province.

I have every confidence that the minister is going to deal with the next stage of this particular matter in a similar way which will continue to bring the confidence of the people of Ontario to the government.

I rest my case at that point, and I cannot support the amendment to the motion.

Mr. Cunningham: This last contribution to this debate has to be the most bizarre speech I have ever heard in this committee. I really sense, from what I have heard from the honourable member, that he would really be the last person off the Titanic, the absolute last, and would justify the slight collision with the iceberg as merely an opportunity to take aboard some fresh ice.

This really is just bizarre. We met with Mr. Biddell yesterday. Mr. Biddell did not meet in confidence with us, albeit the meeting was for our research people and MPPs, but there was absolutely nothing that Mr. Biddell told us that the minister could not have told us. The harsh facts of reality are--

12:50 p.m.

Mr. Brandt: Suppose you tell us what the harsh facts are.

Mr. Cunningham: I think most of it is in the Globe and Mail today; you might take the opportunity to review it.

We have gone through a litany of failures in this ministry. Some are very firm reasons for you and every other member of the Legislature to support a full, open investigation of just what in God's name is going on in that ministry: Atlantic Acceptance Corp., British Mortgage and Trust Co., Astra/Re-Mor, and C and M Financial Consultants Ltd.

Re-Mor was licensed 13 days after another division of the ministry caused a mortgage broker licensed by your government to be wound down. Thirteen days later you license them again, wind

them up and away they go. Three hundred and fifty families are out their life savings.

Mr. Brandt: Don't forget to mention the responsibilities of your federal colleagues in this matter.

Mr. Cunningham: Your minister stands in the House with regard to Co-operative Health Services and he says the company was taken over by sharks. I have a copy of the minister's file. He should have known for six years what was going on. Now we have Argosy Finance Co.

I don't think any member of this committee wants to impair the interests of Crown Trust Co. and the niceties of Bill 215 which are before us. The rookie member for Sarnia was not here as we went through the Astra/Re-Mor matter but, as I said to him and as Mr. Kerr and his other colleagues who participated on that committee could tell him, on no occasion did we breach the doctrine of sub judice and involve ourselves in something that was before the courts. We did not impair any of that; we had a sense of responsibility. Whenever there was any possibility or just a modicum of doubt, our chairman would stop us, as I believe our chairman here would today.

In conclusion, I would implore you to consider supporting the motion advanced by Mr. Swart and discard any idea that you have of frustrating this matter, covering it up or impairing us from discharging our responsibilities as members of the Legislature.

There are a lot of things that are wrong and not right about the operation of that ministry. On your hands is the impairment and the negative disposition that will be carried into the House on the subject of Bill 215, and matters that follow thereafter, if this committee is going to be frustrated from dealing with things that we really should be looking at. It is not just a matter of what we have said; Mr. Brace has said it.

Mr. Biddell has made a career, as an accountant, as a trustee in receivership, of fixing up the messes that have gone on in this ministry. I spoke with him yesterday and asked what he thought this situation was in comparison to Astra. He just shook his head and threw his hands up in the air. It is inconceivable.

This committee has a job to do and I would suggest that the members of the Conservative Party endeavour to help us discharge our responsibilities.

Mr. Conway: I just want to make a brief intervention on the resolution standing in the name of the member for Welland-Thorold. It recommends itself as a sensible one which I can support.

I am a little disturbed, quite frankly, by the member for Sarnia's comments. He obviously feels very strongly about his position. I just have to say to him that in terms of destabilizing the investment community--something about which you are understandably concerned--one has to think about what could be

more destabilizing than the seizure and the takeover of a variety of these trust companies. I regret to think of what is yet to unfold. I suspect the next four to six weeks will be very interesting.

For the three companies that are now before us, and in particular the matter of Crown, it seems to some of us that the minister's Friday night takeover was a pretty remarkable and, in many ways, destabilizing factor. I cannot imagine anything that could be more destabilizing than that one particular initiative.

There are people here who know the investment community better than I. From talking to Mr. Biddell yesterday, I got the feeling that the seizure and the government's operation of the Crown Trust Co. had sent a very considerable tremor through the community. I only mention that because we would not want the member for Sarnia to lose sight of any destabilization that might have been created by the actions of his own government.

I conclude by drawing his attention again to what I think is a very important fact in all of this. Surely the Legislative Assembly has a right, at this point in time, to look at that area of our responsibility, to look seriously and to look carefully at the nature and the extent of the regulation, and to look seriously and carefully at what has been done since 1981 when the last siren sounded in this connection.

With all due respect to the member for Sarnia, the one difficulty that some of us would have with his invitation, "Be patient and let us carry forward," is that we did that two years ago. Sitting in the same room, with some of the same people, with many of the same serious difficulties, a committee of this assembly basically found the government saying much the same thing.

What do we have to show two years later? We have upon us perhaps the granddaddy of all disasters in this field and no clear indication whatsoever that these very people who are now protecting us did any of the things they said they were going to do 18 and 20 months ago. That has surely got to concern everyone, from Sarnia to Cornwall, and I would hope that the members opposite would keep that in mind as they think about what it is this amended motion seeks to do.

It is simply, I believe, to focus in on the way in which the minister and his registrar of loan and trust corporations carried out their mandated responsibilities in the recent past, in the light of the commitment and undertakings given by various ministers and the registrar. I think that is a perfectly sensible line of inquiry that, I have every confidence, our esteemed chairman, the member from Woodstock, could guide along a reasonable and parliamentary path.

Mr. Spensieri: I am speaking briefly on the amendment and, of course, reserving my place in the sun on the main motion.

I would like to say, first of all, that not only is the amendment supportable, and indeed must be supported, but it is of such a curative nature that without it, I would submit, Mr.

Chairman, and I invite you to rule on this later, the main motion, indeed, is faulty and should be considered a nullity.

The reasons for arguing that are as follows. If you ask for a deferral, as the main motion said, or a deferment, as Dr. Stevenson says, you must indicate a time period when that deferment is effective; that is to say, that you cannot ask for a blanket or sine die adjournment or deferment of consideration of an important motion.

Therefore, aside from the intrinsic merits of the amendment, to the extent that they bring this matter to the fore in an expeditious way on January 28, it has, I submit to you, a very relevant and very important place in the main motion and, in fact, the two should be read in conjunction and cannot be even considered separately. I think at some point you will have to rule on that aspect of the combined motions.

However, the main reason for wishing to speak on this adjournment lies in the fact that, while I do not have the same sense of having been around the merry-go-round as my colleagues who presided over the Astra/Re-Mor considerations, I have my own sense of déjà vu. We had, some time prior to the initial Cadillac Fairview closing, and before Mr. Barlow's committee, a similar situation where the Residential Tenancy Commission report for the period ending March 31, 1982, was before that committee.

Based on research that had been developed by our research staff, some two weeks prior to the closing of the first Cadillac Fairview deal--on, I believe, October 24--we invited the chairman to take the same prosaic or routine report and enlarge on it, so as to consider the sale that was taking place and what I indicated to them was the collusive financing, the potential for the quick flip. We outlined chapter and verse what that committee could have done with the prosaic report of the Residential Tenancy Commission. In the hands of an opposition a routine report is a very powerful tool, and as the parliamentary assistant indicated, one can enlarge upon ancillary and corollary aspects of it.

1 p.m.

I would submit to you, Mr. Chairman, that had not the same kind of mood prevailed at that particular committee hearing, the embarrassment which has befallen this government and, indeed, the loss of confidence in the trust industry which we now face could have been spared. A courageous committee, a committee under a more enlightened and open approach by the six sitting members who always face us at committees, could have taken, as I said, that springboard of the Residential Tenancy Commission report and delved into and possibly even forestalled or prevented the closing of the Cadillac Fairview transaction.

I should add that the same kind of reasoning was advanced then. Mr. J. A. Taylor, who was a member of that committee, said that the public interest would be affected. The private interest of the purchaser would be affected. The public would suffer. We had no right interfering in essentially a private real estate closing, and, anyway, we couldn't use the report, which had been

referred to that committee in a proper and legal fashion according to parliamentary rules, to launch into a fishing expedition.

So I have my own sense of *déjà vu*, even though, as I said, as a rookie member and a new member of this justice committee I was not present to expand upon and to participate in the earlier delving into the trust companies' affairs so well recited by my colleague, Mr. Cunningham. It is with that sense of *déjà vu* that I urge you, Mr. Chairman, and the members of this committee opposite to accede to the amendment which has been proposed, out of a gesture of co-operation.

You, of course, are demanding co-operation from us. Mr. Biddell was, I would say, for an hour and a half, exuding requests for co-operation yesterday when we met with him.

If you want to continue with that spirit of co-operation I suggest you incorporate this amendment into your main motion. Come back to us when this committee next convenes with it perhaps originating from you, if it makes you feel better, but incorporate the amendment in the main motion.

I suggest to you again very strenuously, Mr. Chairman, that the two cannot exist separately, as the parliamentary assistant's main motion is a nullity for lack of certainty as to its returnable date and its returnable time.

Mr. Mitchell: Mr. Chairman, I was going to make some very brief comments with regard to the amendment to the motion. I want to assure all members of the committee that where my motion used the word "defer" it strictly meant that. I am in no position to attempt to put any time limit on it, because my major concern, as is the concern of all my fellow members on this side, is to ensure the depositors out there in this situation are protected.

Mr. Rae: Seaway and Greymac? You've left them out to dry.

Mr. Cunningham: Defer it like Astra.

Mr. Mitchell: Are they finished, Mr. Chairman?

Mr. Chairman: Yes, thank you. I'm sure they are.

Mr. Mitchell: In fact, as the members are well aware, by legislation which they supported the registrar of loan and trust corporations has taken over control of the companies at this point and you know their involvement there. Any proceedings of this committee that take them away from that very important task could only be extremely detrimental to resolving the whole issue and guaranteeing the depositors.

I, therefore, quite honestly cannot support this motion to bring those people away from their very onerous tasks of trying to protect the depositors in Ontario.

Mr. Chairman: I am going to anticipate something, knowing the justice committee as I do. Before anyone points out the clock to me, if someone was so disposed--

Mr. Mitchell: You have recognized it now, Mr. Chairman.

Mr. Chairman: No, I haven't looked at the clock. I haven't looked at it for some time.

Looking at the Votes and Proceedings of yesterday, January 25, I understand, although it's not in there, when the government House leader referred to private members' hour being set aside he also indicated that it would be second reading of Bill 215.

Mr. Breithaupt: Both in the afternoon and the evening.

Mr. Chairman: Yes, and Mr. Breithaupt gave me his opinion that this committee could not sit and deal with any matter in the same policy field while legislation is going on in the House. I would refer to standing order 53(d) where it says, "No bill shall be considered in any standing or select committee while any matter relating to the same policy field is being considered in the House."

Therefore, unless someone has some other authority, I would restrict that to saying that no bill can be dealt with here while a bill is being dealt with in the House. Therefore, since this is not a bill, since this is an annual report, subject to being overruled by the committee, of course, I would rule that this committee could carry on tomorrow on this subject if this committee wished by consensus to do so.

Mr. Renwick: My friend asked for Friday.

Mr. Chairman: He asked for Friday. That is part of the motion, but I am just anticipating this session ending in the air. There being no further people wishing to deal with this motion--

Mr. Breithaupt: The amendment.

Mr. Chairman: Sorry, with this amending motion of Mr. Swart. Do you wish to have a recorded vote?

Mr. Swart: Recorded vote, yes.

Mr. Chairman: Will you respond to the clerk when he calls your name.

The committee divided on Mr. Swart's motion which was negated on the following vote:

Ayes

Breithaupt, Conway, Rae, Spensieri, Swart.

Nays

Brandt, Eves, Mitchell, Piché, Stevenson, Watson.

Ayes 5; nays 6.

Mr. Breithaupt: Now is it appropriate to consider what

this committee will next do? I had made the suggestion with respect to the sudden change from private members' hour in order, I had thought, to make it somewhat more convenient for members who, no doubt, being interested in this, would wish to be in the House during the debate on second reading.

If, however, it is the wish of the chairman to have members of the Legislature here discussing this theme while the bill is being debated, and if the committee wishes to do so, then, of course, the committee may meet tomorrow. I would have thought it better that everyone be in one place to discuss this issue, rather than have it divided between two places. However, certainly, if the committee wishes to proceed tomorrow afternoon with this same theme I would very happy so to do.

It may be that as a result of that discussion and with reports coming from what is going on upstairs in the chamber, at least some of the government members of the committee may find that it is worthwhile to proceed as expeditiously as possible and finally decide to reject the motion that's before the committee.

1:10 p.m.

Mr. Chairman: Before Mr. Mitchell speaks, may I point out that my remarks were of two minds: first, in anticipating what is fairly routine procedure in the justice committee regarding the clock; and second, to clarify my understanding of the standing orders, following Mr. Breithaupt's previous comment, and to set the potential possible procedures. I did not indicate a preference or a direction.

Mr. Mitchell: Mr. Chairman, by listening to Mr. Breithaupt's comments, and those made by others, I get a feeling, perhaps wrongly, that they feel they should all--particularly when they are critics in this particular field--be in the Legislature to deal with that piece of legislation. If that is the case, I would be more than willing to go with what I had thought we had previously decided: that this committee was not sitting Thursday and Friday.

Mr. Cunningham: After your conduct today, we may be sitting all weekend.

Mr. Breithaupt: If the chair wishes to put the motion that we sit after routine proceedings tomorrow in the usual time spot available to this committee, that is just fine with me.

Mr. Swart: Mr. Chairman, I think there is more to be said in this committee on this issue. However, there is some merit in members who are justice critics concerned with this matter being in the House while this debate takes place tomorrow. This committee normally sits on a Friday. I believe we have nothing scheduled for Friday. You have just defeated a very important notice which would have made the Friday sitting essentially worth while.

In spite of that, I would think that after the debate in the House tomorrow--as Mr. Breithaupt has said--events might take

place that we will want to discuss or which might cause this motion to be reconsidered.

My suggestion would be that we adjourn now and meet again on Friday to carry on the debate on this motion, but be in the House tomorrow while the debate is taking place on that very important matter.

Mr. Chairman: Thank you, Mr. Swart. I have your comments about Thursday but, coming in the back door, I have to rule that out of order because we just had a vote on that very topic.

Mr. Swart: Mr. Chairman, on a point of order, we had a specific motion that we sit on Friday to do certain things. I am not trying to come in the back door in any way.

I am saying that we still have a motion before us. I am not suggesting for a moment that we do those things on Friday if the motion has been defeated, much as I would like to. I am being very frank on this matter. I just think there is a time slot there which can be very useful to carry on the debate on this motion.

Mr. Chairman: I am looking for directions. We still do have the main motion on the floor. I am looking for directions from the committee.

Mr. Watson: Mr. Chairman, I appreciate your interpretation concerning the bill or the subject but, although your ruling or interpretation is that we could, I really do not think we should. I would suggest that if this bill, which deals specifically with the subject, is being discussed in the House, this committee not meet to discuss it.

Mr. Chairman: Am I then to take it that it is the committee's wish, the consensus, that this committee be recalled as soon as Bill 215 is finished in the House, to complete the motion that is in front of us?

Mr. Breithaupt: Another way of putting it, Mr. Chairman, might be that the committee would meet Friday morning after routine proceedings unless Bill 215 is completed. You could do it either way.

Mr. Swart: I would concur.

Mr. Chairman: Okay. There is a consensus of all three parties. Fine.

Mr. Brandt: In the interests of the co-operative spirit that we have here--

Mr. Conway: I would think all the free enterprisers will want to be in the House to sell what they have just seized.

Mr. Chairman: We will now adjourn, to reconvene Friday morning, subject to the condition Mr. Breithaupt stated.

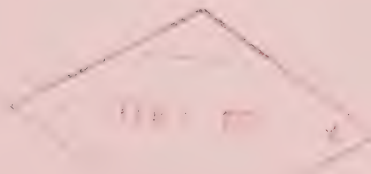
The committee adjourned at 1:15 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

ANNUAL REPORT, REGISTRAR OF LOAN AND TRUST CORPORATIONS, 1979

FRIDAY, JANUARY 28, 1983



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Conway, S. G. (Renfrew North L) for Mr. Elston
Cunningham, E. G. (Wentworth North L) for Mr. Spensieri
MacQuarrie, R. W. (Carleton East PC) for Mr. Piché
Rae, R. K. (York South NDP) for Mr. Renwick

Also taking part:

Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
Johnston, R. F. (Scarborough West NDP)
Peterson, D. R. (London Centre L)
Reid, T. P. (Rainy River L-Lab.)

Clerk: Arnott, D.

From the Ministry of Consumer and Commercial Relations:

Biddell, J., Adviser
Macdonald, W. A., Adviser

Witness:

Shuve, A. St. C., Acting Chief Executive Officer, Crown Trust Co.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, January 28, 1983

The committee met at 11:38 a.m. in room 151.

ANNUAL REPORT, REGISTRAR OF LOAN AND TRUST CORPORATIONS, 1979
(continued)

Mr. Chairman: Having a quorum, we will proceed. There is a little difference of opinion as to whether we should even discuss or deal with the motion we had on Wednesday. We have a consensus in front of us on Mr. Breithaupt's wording that it be postponed.

Mr. Breithaupt: Mr. Chairman, the members will recall that we had considered, and I think agreed, that we would be proceeding with the adjourned review of the motion Mr. Mitchell had placed before the committee on Wednesday morning as to not proceeding with the review of the report of the registrar of loan and trust corporations at this time. We were going then to meet this morning if Bill 215 was otherwise not before us. I think some presumed that the debate on second reading might have continued possibly. On the other hand, we felt that the committee stage, whenever that might appear, would likely be committed for the beginning of next week.

As a result, since we are in between those two circumstances, we have this morning open to us to begin the committee stage of Bill 215. I would think that we can agree to proceed with that, and simply let the other matter stand before the committee. If we get the opportunity to continue a discussion, fine; if we don't, because of other circumstances, then that would really be beyond our opportunity.

Mr. Chairman: So you are suggesting that that be postponed for further consideration?

Mr. Breithaupt: I think so, Mr. Chairman, that it simply stand as a motion before the committee, and if the occasion arises later next week, during the normal times when this committee might meet, if that is an item with which the committee wishes to proceed, we can obviously be guided at that point.

Mr. Swart: I agree. From a very practical point of view, we can discuss many of the issues we want to discuss under that here this morning in dealing with this bill. Secondly, because of the urgency of this matter, we should proceed with the bill

Mr. Mitchell: Yes, we are in agreement with that. In fact, that is why I raised the issue with you at the beginning. I felt that we should get on with the task assigned to us by the House.

Mr. Brandt: I would echo the same thoughts as expressed by Mr. Mitchell, that we on this side would agree with that procedure.

Mr. Cunningham: My personal preference would be that this offensive motion of Mr. Mitchell's be withdrawn and that the original reference be dealt with at the pleasure of the committee when it chooses to do it. I am on record as saying that I really regard this to be an instrument in covering this matter up and not allowing the justice committee to discharge its responsibilities.

I remain very firmly convinced that that is the appropriate direction we should take and that we should, as a committee, involve ourselves in an investigation at an appropriate time when this bill maybe is completed. Possibly the parliamentary assistant, as an act of good faith, might withdraw his motion.

Mr. Chairman: Either I see the consensus that was there up until Mr. Cunningham spoke, or I will take a motion. Do I see a consensus? Will the Liberals put it off, as Mr. Breithaupt said, or do you want to make a motion?

Mr. Breithaupt: I cannot move that he withdraw his motion. I would prefer that he would withdraw his motion.

Mr. Mitchell: We prefer the proposal put forward by the member for Kitchener.

Mr. Chairman: Fine. I am seeing consensus that it is postponed for further consideration, following Bill 215. Thank you.

We are here this morning to commence clause-by-clause consideration of Bill 215, an Act respecting Crown Trust Company. The minister is present.

Mr. Breithaupt: Mr. Chairman, while I realize there has been some interest in the press in the House with respect to this bill, perhaps the minister has some comments he wishes to make. I see that we have got two amendments that are going to be before us with respect to section 10. Does the minister contemplate any further amendments?

I should say at this point that a package of amendments which we are suggesting is just coming from the legislative counsel's office and should be with us within the next several minutes, if all goes well, so that the committee will be able to consider those.

The minister could advise us if there are any other particular changes, from his point of view, that might appear before us in the next day or so when we have the opportunity to deal with the bill.

Hon. Mr. Elgie: Thank you, Mr. Chairman. The two amendments I propose are in line with the undertaking I gave the Legislature and the Premier (Mr. Davis) gave the Legislature that the shareholders in this company should, indeed, have the opportunity of exercising their rights in court with respect to the sale of the property and any rights they may have with respect to the commercial prudence seen and carried out in that sale, and those two amendments are there.

I might just say I have with me today Mr. W. A. Macdonald, who has been adviser and counsel to the ministry and the government; Mr. Jack Biddell, who has been my own special adviser and adviser to the ministry in the undertakings of possession and evaluation of the trust companies and in other matters; Mr. Crosbie, my deputy; and behind me Mr. William Moull from the firm of Davies, Ward and Beck.

As I told the House the other day, in view of legitimate concerns--although I had none--about the potential conflict that Mr. Macdonald could have had, having in mind the fact that he is a director of Victoria and Grey, even though he and I had understood from the beginning that if any matter arose with Victoria and Grey, he would exempt himself from those discussions, nevertheless I did some time ago retain the firm of Davies, Ward and Beck.

Mr. William Moull is here because he has had a great deal to do with the substance of the bill, but not the drafting of it, in terms of the needs of the legislation as it relates to the sale. The sale to a purchaser is the absolute essence of the bill and the sections in it relate to those needs. That is why I have him here, in case any of you want any further explaining of the meaning of certain sections, in addition to any explanations that legislative counsel may give.

Mr. Breithaupt: I have now the 12 amendments which we are proposing and I have given them to the clerk. They can be distributed, I presume. While we are doing that, there may be some general comments or questions of the advisers to the minister.

Mr. Chairman: They are being copied right now. Where do they begin? What is the first section?

Mr. Breithaupt: Clause 3(1)(b), Mr. Chairman.

Mr. Rae: Mr. Chairman, I wonder if it would be possible for us to have Mr. Thompson and Mr. Shuve here as well. It is my understanding that Mr. Shuve has been asked by the minister to take some degree of responsibility for the ongoing operations of Crown Trust during this period, in which the registrar has some responsibility. Because of the extensive powers which are being given to the registrar in this legislation and because of the registrar's responsibility for the current administration of Crown Trust, I wonder if it would not be possible for Mr. Thompson and Mr. Shuve to be with us before we proceed further.

I have given out a notice of motion to you, Mr. Chairman, in which I asked that Mr. Beddell, Mr. Shuve and Mr. Macdonald attend to assist the committee in its consideration of Bill 215. I am delighted to see that Mr. Macdonald and Mr. Beddell are here.

Hon. Mr. Elgie: Your wish is our command.

Mr. Rae: I hadn't noticed that in the past, I might say. I would like to see Mr. Shuve and Mr. Thompson here as well. I wonder if that would be possible, with the consent of the minister. If necessary, I will move the motion.

Hon. Mr. Elgie: If I might respond, I don't see any problem with us contacting Mr. Shuve to see if it is possible for him to come. We will certainly make every effort to get him here today, if it would assist in the rapid progress of the matters before us. We will make an effort to get him in any event.

Mr. Rae: The concern I have, frankly, is that we get into a detailed clause-by-clause discussion before having an opportunity to examine people.

Hon. Mr. Elgie: We will endeavour to get him up. We will also contact Mr. Thompson and ask him to come over so that he may respond to questions, within the constraints placed on him, related to the bill and to Crown Trust, of which he has taken possession.

Mr. Breithaupt: It just may be, since we have a variety of amendments before us, and since the committee has perhaps an hour and a quarter or so today, we could agree that Mr. Shuve and Mr. Thompson perhaps could be with us on Monday. I think that would be a practical way of handling it.

Mr. Rae: I am not trying to be difficult. I don't want to get into your amendments or our amendments or anybody's amendments until we have had a chance to have a general discussion and shed a little light on just exactly what is happening. The minister made a statement yesterday, which said that every second of delay amounts to an erosion of certain assets. I think we are entitled to ask the people who are responsible for--

Hon. Mr. Elgie: I think you are too, and that is why I have asked for Mr. Shuve to be brought here right away. I wondered if you could hear from him first, as a matter of fact, and have some comments from him right at the beginning so that you understand the urgency of the matters before us. Perhaps we can then have some discussions as to our procedures today and other days if they are deemed to be necessary.

Mr. Conway: Mr. Chairman, I have a general procedural point which I think it is appropriate and consider extremely important from my understanding of this bill. The minister has, in introducing his special advisers, given me, I think, an opportunity to satisfy my own concerns at this particular point in time.

I would like to do so, with your permission, Mr. Chairman, by asking the minister to explain more particularly the nature of the relationship that exists between himself and Mr. W. A. Macdonald of McMillan Binch and, in particular, to address the concern that many in the community have that there is something quite untoward about the minister, in so sensitive a matter of public policy, taking unto himself an adviser who, notwithstanding his very excellent reputation in the legal community, is a man who has served on the board of Victoria and Grey Trust which, we are told, is one of the involved principals in a group of four or five or six who may very well, at this moment, have made a tender on the property that we seek to dispose of through Bill 215.

I would like you, sir, to help me understand, and through me, the people of Ontario, why it is you have felt that it is necessary to take as your personal legal adviser a man who has served on the board of one of the companies that may very well at this moment be bidding on the property we seek to dispose of in this rather exceptional way. How is that not so significant a conflict of interest that it should have counselled a different action on your part?

11:50 a.m.

Hon. Mr. Elgie: In early December when I first felt that there would be a need for outside advice and counsel to the ministry and the government, I naturally gave thought to individuals and law firms that might be most appropriate for that, knowing full well, having some knowledge of the involvement of many law firms in many issues that were already being looked at, that there would undoubtedly be very few law firms that did not have some conflict in one way or another.

I spoke to Mr. Macdonald and the first thing we spoke about was any conflicts that he may have. He mentioned the issue of Victoria and Grey, as a director, and it was agreed that he would absent himself from any discussions of any matters related to the issues before this House at Victoria and Grey. It was agreed that, if anything else arose, he would exempt himself from those discussions. He has done so diligently.

However, as things evolved and as it became apparent, to me at least and to the government, that the only rational solution was to consider the possibility of selling Crown Trust as an ongoing business, and recognizing the concern that there might be with respect to a conflict, I had Mr. Howard Beck, of the firm of Davies, Ward and Beck, contacted, and from that point on that firm has been solely and totally involved in any discussions relating to the sale. Mr. Macdonald has not now and has not in the past had any discussions with anybody relating to the sale.

Mr. Conway: I just want to understand this.

Hon. Mr. Elgie: I understand it is an important issue. I want you to understand I have thought about it and I have addressed it. I think to say anything else about it really would be casting aspersions that aren't warranted.

Mr. Conway: I want to just highlight a couple of those points. From a layman's perspective, I just want to be clear. It was some time in early December that you took on Mr. Macdonald as your personal legal adviser?

Hon. Mr. Elgie: The ministry's, the minister's and the government's adviser and counsel in these matters.

Mr. Conway: At that time, as of this day, Mr. Macdonald serves on the board of Victoria and Grey Trust. Am I correct?

Hon. Mr. Elgie: That is correct.

Mr. Conway: At some point subsequent to that date in early December, you became concerned about the impression in the community that might be created as a result of the potential for conflict of interest.

Hon. Mr. Elgie: In January, after the registrar took possession.

Mr. Conway: You then sought different legal counsel, as it relates specifically to the matter of the sale of the Crown Trust Co. to whomsoever?

Hon. Mr. Elgie: That is right.

Mr. Conway: So I take it then that today Mr. Beck acts in that capacity and Mr. Macdonald acts in exactly what kind of area? I can't visualize in my mind the separate and distinct jurisdictions in which they function and how they would not unavoidably be intertwined.

Hon. Mr. Elgie: That is not happening; there is no intertwining. As you know, there are numerous problems and issues relating to all three trust companies, relating to the sale, relating to a number of matters, relating to lawsuits. The law firm of which Mr. Macdonald is a senior partner advised the government on a number of areas totally unrelated to the sale. We may or may not take his advice, but there it is.

Mr. Conway: I just want to indicate that I think it sets in a very sensitive area an unfortunate impression in much of the community. If it should come to pass that Victoria and Grey Trust is the successful purchaser, or whatever, of the Crown Trust Co., I have to tell you that there are going to be some people--I suspect more than you might imagine--from the Ottawa Valley outward, who will think that somehow it was all some kind of inside deal. I think your judgement in this respect is somewhat faulty.

I understand the Law Society of Upper Canada has something in the neighbourhood of 16,000 practitioners in this province by some accounts, many of whom have got a lot of expertise and some spare time on their hands. It strikes some of us as passing strange that the limits are so tight, the range of possibilities so strict, that it happens that you need to involve yourself with people who seem to be potentially walking both sides of the street. I will leave my comments at that.

Mr. Renwick: In order that we can understand exactly what the government is asking us to do with respect to this bill, it is obvious that we are going to have to have for the members of the committee some basic, fundamental pieces of paper as starting points for any discussions we are going to have.

Mr. Swart: I do not want to interrupt my colleague, but I wondered if I might, before we leave this other issue, since my colleague is not pursuing it, have a couple of supplementary questions on it?

Mr. Chairman: Do I have Mr. Renwick's permission?

Mr. Renwick: You certainly have. I always defer to my colleague Mr. Swart.

Mr. Swart: I just want to ask the minister two questions. Was Mr. Macdonald an adviser in any way in the decision to sell Crown Trust, to bring in this bill and to offer for sale Crown Trust?

Hon. Mr. Elgie: Certainly. Mr. Biddell and Mr. Macdonald both were involved in discussions about that decision and making recommendations to the government.

Mr. Swart: Then Mr. Macdonald was one of those that recommended that. Secondly, was he involved in any recommendation with regard to parcelling the assets?

Hon. Mr. Elgie: I do not think so. Mr. Biddell?

Mr. Biddell: I think I was primarily responsible for that one.

Mr. Swart: You use the word "primarily". Could I ask you if Mr. Macdonald was involved in any way in it, knew about it and made any recommendations, or was involved in any discussions?

Mr. Biddell: I was the one who devised the technique and I put that in a letter to the minister or to Mr. Thompson. I forget to whom it was addressed. It was either one of them. I told Mr. Macdonald about the technique afterwards.

Mr. Swart: About the technique. Perhaps I can ask Mr. Macdonald if this was discussed.

Hon. Mr. Elgie: Does Mr. Macdonald have any comments to make on that question?

Mr. Macdonald: I was certainly aware of it and recognized it as one way in which the problem of evaluating doubtful assets could be dealt with.

Mr. Swart: You supported it? Were you asked to give any recommendations?

Mr. Macdonald: I will not be asked to give any recommendations on a particular transaction. But if you ask me if I would regard it as one way of dealing with the problem of assets about which there is some dispute and some difficulty about establishing their value, I would say yes, it is one legitimate way of dealing with that particular problem in the context of trying to make the best arrangement for the continuance of Crown Trust and maximizing the value of the assets, on the one hand, and preserving as full rights as possible for snareholders, which include both preferred and common shareholders.

I would say that yes, that is certainly a legitimate way to go, but whether the people who advise the minister and advise the Canada Deposit Insurance Corp. board, having regard to the particular proposals made by particular companies, will decide that a proposal that includes that as better, or a proposal that does not include that as better, that will never come to me.

12 noon

Mr. Swart: Specifically, by way of supplementary, were you involved in the discussions leading up to this decision that this was one of the real possibilities that should be pursued?

Mr. Macdonald: I want to be sure, when you say this is one of the real possibilities, what you mean by "this is". Do you mean the parcelling?

Mr. Swart: Were you involved in the discussions leading to the parcelling?

Mr. Macdonald: I have to tell you that I do not really have a perfect memory as to the sequence of everything that went on. It is certainly conceivable that Jack Biddell mentioned that as a possibility to me before he mentioned it to the minister. It is also a possibility that he did not. His memory seems to be that he did not. I am not sure that he did not.

Mr. Rae: The minister has stated and Mr. Macdonald has stated that he has agreed to absent himself from any discussions within the ministry or advice to the minister with respect to the acquisition. Part of my concern is now Mr. Macdonald sees his role as an adviser to Victoria and Grey, as a director. He has certain responsibilities as a director to that company.

Hon. Mr. Elgie: I wonder if you are prepared to answer that.

Mr. Macdonald: Certainly.

Mr. Rae: If I could just speak on this point, Mr. Macdonald, and I will not take very long, I wonder, just on a factual basis, if you could tell us what communication or what contact you have had with Victoria and Grey, with the officers of Victoria and Grey or with other directors of Victoria and Grey, with respect to any proposals they might have made or be contemplating making with respect to this particular acquisition. If I could ask, in addition to that--

Mr. Macdonald: I can answer that in a word right now: zero, none. I know nothing except what I read in the press to the extent that you do know something when you have read it in the press.

Mr. Rae: We all share that sense of perplexity. Can I ask you whether you are aware of any previous contact, prior to your having been retained by the government, between Victoria and

Grey and either the ministry or any of the senior members of the government with respect to any concerns which Victoria and Grey may have had concerning the administration of any of the trust companies under question?

Mr. Macdonald: None. I suppose I should not go on to say what I do not know, but I would doubt that they had any contact. I suspect I might have heard about it if they had.

Mr. Rae: Those are all my questions.

Mr. Renwick: As I was saying, I think there are some basic pieces of paper that the members of the committee should have. I trust that we would get them by general agreement rather than to have to start to move formal motions about any of them. The ones that come to my mind are not necessarily exclusive, and there may well be other members of the committee who would like other information.

It would seem to me that by the time this committee meets again next Monday each member of the committee has to have some basic, fundamental information about the transactions which are proposed by this particular bill. I need the help of the minister and his advisers to add to this, from their knowledge that I do not have, other documents that would make it more readily available to us. For example, I would think that we should have as a starting point the latest audited financial statements of Crown Trust Co., whatever date that would happen to be. At least, it would be a starting point.

Secondly, in the sparse information which you gave to us when you released the portions of the Woods Gordon report, there is a document referred to in that as a simplified, unaudited, condensed-down sheet of the company at December 31, 1982, and January 7, 1983. I would like to have an expanded financial statement at that time, or whatever subsequent date is available, together with whatever notes and comments are necessary. I recognize that we cannot have a fully audited report of the company at that time. There must be some basic starting point of comparison because you are speaking about a deterioration in the state of Crown Trust over a period of time. We have to have the financial information which will illustrate to the committee the extent and degree of the consideration.

That is what we need, and I suppose it is up to us then to decide whether it is adequate and sufficient.

Hon. Mr. Elgie: May I respond to that now? One of the constraints that was on me until Wednesday was related to the Daon mortgage. Now that some matters related to that have been resolved, I think it is fair to say that the entire Woods Gordon report can be tabled in this committee.

Mr. Renwick: The entire report can be included in the papers that could be tabled or provided for the committee?

Hon. Mr. Elgie: Yes, and today if you wish them.

Mr. Renwick: Today would be quite helpful.

Mr. Macdonald: Mr. Chairman, to clarify one point for Mr. Renwick, when you are given that you will have what the registrar and minister now have in terms of the balance sheet question that you raised. In other words, there is nothing more. Of course, you understand the audited statement, which there would be no reason why you should not have, will be 1981.

Mr. Renwick: I understand that, but as I say, in looking at any company, you have to have some starting point. Somebody will have to tell me, but I assume that somebody will be able, the registrar presumably, to tell us that as at December 31, 1981, this company was not in default in any conceivable particular under the Loan and Trust Corporations Act. In other words, we have to have a firm place to start. It seemed appropriate that even though it may well, in the long run, be historic, we as a committee should have that piece of information.

Mr. Chairman: Mr. Renwick, do you wish Mr. Cunningham to take a supplementary at this point and then go back to you?

Mr. Renwick: I am always easy with my friend, Mr. Cunningham, but I have a number of things on my mind and I would not want to be distracted from that if I could. I would like to just go on and perhaps Mr. Cunningham could make a note of it and come back in again. The minister, when he introduced this bill on Monday, stated, "It has been agreed that there are terms upon which Canada Deposit Insurance Corp. may properly ensure that the public deposits in Crown Trust will be paid in full as they mature and, at the same time, allow the operations of the business to be conducted in a normal fashion. These terms require the registrar to make arrangements acceptable to Canada Deposit Insurance Corp. that will result in the business of Crown Trust being operated by new owners."

It was on that basis that this legislation was placed before us. Could we have now, or on Monday, the terms of the arrangements with Canada Deposit Insurance Corp. or the conditions imposed by Canada Deposit Insurance Corp. with respect to the transactions which we are being asked to legitimize by passing this legislation?

Hon. Mr. Elgie: Mr. Renwick, I could ask Mr. Macdonald to express those terms right now for the record for you.

Mr. Renwick: In other words, there is nothing in writing with CDIC in which they have stated the terms and conditions under which this legislation would be required. I am only talking about a piece of paper now. If there is no piece of paper, then perhaps at another point we could elucidate on these matters.

Mr. Macdonald: I think that maybe, if you do not want a full elucidation now, the only pieces of paper that exist that accurately state, as far as they go, the position of CDIC are the references in the minister's statements of January 17 and 24 to those arrangements because those references were cleared as not misrepresenting the position of the Canada Deposit Insurance Corp. before they were made.

12:10 p.m.

I think you should understand why there is nothing in writing. There is nothing in writing because to have something in writing would have required the action of the Canada Deposit Insurance Corp. board because it would have involved up to \$200 million or more. That will only be done by board action and one will only get a piece of paper following board action. Now we can expand it at another time a little more on those terms and the reasons why Canada Deposit Insurance Corp. felt that within their legislative mandate they had to insist on those kind of terms and why the Ontario government regarded those terms as acceptable having regard to its objectives of protecting the depositors.

Mr. Renwick: With the best will in the world, the record of this committee, when it is published, is not something that is bedside reading. The exchanges are not adequate from my point of view. I would ask the minister, therefore, if there is nothing in writing, that it be reduced to writing over the weekend to tell us what are the terms upon which Canada Deposit Insurance Corp. may properly ensure that the public deposits in Crown Trust will be paid in full as they mature and, at the same time, allow the operations of the business to be conducted in a normal fashion, and what are the requirements imposed by CDIC on the registrar with respect to the sale or disposition of the assets to "new owners." We need something that tells us what the residual fallout of the discussions with CDIC are that requires this legislation.

Mr. T. P. Reid: And how long it is good for.

Mr. Macdonald: Mr. Chairman, I think in fairness to the committee we can tell you the essence, which may be helpful because you can have it in your mind and we can see whether there is some way in which we can put something in writing that will amplify what I am about to say. I think it might help the committee members to understand the legislative constraints that the Canada Deposit Insurance Corp. board regards itself as under having regard to the terms of the legislation that it operates under.

They see themselves as insurers of deposits up to whatever limit is established. They do not believe that they have the right to use the moneys available to them to go beyond their function of insurers. However, as part of their insurance function, they are entitled to look at a situation and say that by advancing money beyond the insured depositors to protect the uninsured depositors, they feel they can do that within their legislative mandate if they can see that the net cost will be thereby reduced, the net cost being thereby reduced because they can envisage a sufficiently increased recovery on the disposition of assets to offset the increased liability of paying uninsured depositors.

So if they are going to stand behind a company that, as in the words of the Woods Gordon report, is perceived as nonviable, and stand behind it not just for the insured depositors but for all the depositors, they can only do it if they can see that by

doing so the net cost to the public moneys entrusted to them will be less. One of the elements that is essential in arriving at that view is that there be a purchaser, that they form the judgement that there is a real purchaser at a price that will produce that improvement in their net loss and that there is a secure legal route to transfer the business to that purchaser.

Those are the two conditions, and there has been an effort on the part of Mr. David Richardson of Woods Gordon Management Consultants, acting on behalf of the registrar, and Mr. Dick Humphrys, former superintendent of insurance in Ottawa, acting on behalf of the Canadian Deposit Insurance Corp. board, to go through a process, on which I think we will be in a position to provide you with material that will elucidate that process as fully as it is possible to elucidate it.

That was one part of the process in order to get to a position where the CDIC board, dealing with hundreds of millions of dollars of public money within a legislative framework that is restricted, can feel that they can responsibly say, "We will now stand behind all of the depositors of Crown Trust Co."

The second ingredient is that if you're going to have a purchaser, you've got to have a secure legal route to get the property to him. The only other secure legal route, as the minister has said before, was liquidation. The problem with that secure legal route is that it is secure, but it also ensures that the losses to CDIC will be increased rather than reduced and it therefore ensures that there would not be money available for the uninsured depositors.

Mr. Renwick: I have no problem, Mr. Minister, with what Mr. Macdonald has said. That isn't the point that is of concern to me at the moment. When you introduced this bill--and I don't want to read in full your whole statement of Monday, January 24--replete throughout, I quoted the one that I thought was the salient paragraph, and I am surprised at the response that is made to it, because immediately following that one paragraph we have, "These terms require the registrar to make arrangements acceptable to CDIC that will result in the business of Crown Trust being operated by new owners."

"We believe," and I'm skipping, "that unless we make arrangements, as discussed with CDIC, our only alternative is to apply to have the company wound up. Mr. Speaker, we believe that the proposed arrangements provide the only effective procedure to deal with the assets," etc. "Mr. Speaker, if these arrangements are to be effective it is essential that the registrar be empowered by new legislation to enter into these arrangements. It is also essential that we know that there is an acceptable company ready, willing and able to take over the assets and to manage its business as soon as these arrangements are in place. I will be introducing a bill later this afternoon to confer on the registrar the necessary power to effect the arrangements as soon as the bill becomes law," etc. "We will be in a position to comply with the terms of the proposed arrangements."

That's what I would like to have. I would like to have in writing the arrangements with CDIC. As I say, I express a certain degree of astonishment when you tell me that those arrangements are not in any way reduced even to an aide-mémoire or a memorandum of understanding, some kind of indication. You are asking this assembly to pass this law in order that those arrangements can be entered into. I think it is appropriate that we should know what those arrangements are and have it in writing.

Hon. Mr. Elgie: I think you've got to remember that these are proposed arrangements which have certain criteria: that there be a purchaser, that there be a bill, that there be assets to sell, and that that sale and that whole process will continue to provide CDIC with the assurance regarding the outlay of money that they will have to undertake that will allow them to do it.

Mr. Macdonald: Mr. Chairman, I wonder whether Mr. Renwick might speak to me after we adjourn right at lunch and see whether I can understand what it is that he needs--

Mr. Renwick: That the committee needs.

Mr. Macdonald: --that the committee needs, that is in existence or capable of being put in existence.

Mr. Renwick: I'll take that under advisement. I don't know whether that would be a private meeting and confidential or a private meeting and not confidential, or an open meeting and not confidential or what it would be.

Mr. Macdonald: It doesn't need to be private. We've got an understanding gap, Mr. Renwick, the other way.

Mr. Breithaupt: Perhaps the press could attend afterwards.

Mr. Renwick: Perhaps afterwards, and I could explain to them what Mr. Macdonald had told me about that.

Excuse me, I don't want to involve you in the politics of it, Mr. Macdonald, just the minister.

12:20 p.m.

Mr. Macdonald: I was not asking to explain it to Mr. Renwick. I was asking Mr. Renwick to explain what precisely it is that he wants because I don't exactly understand it.

Mr. Rae: With Mr. Renwick's permission, I wonder if I could say that I share Mr. Renwick's sense of astonishment that there is nothing in writing with respect to the conditions and terms of the arrangements which it is anticipated are to be entered into by the Canada Deposit Insurance Corp. It seems to me that this committee is being asked, on the basis of certain assumptions and certain understandings that the government has reached and has arrived at, to pass legislation which can only be described as extraordinary in the circumstances. I'm sure everyone would agree that these are extraordinary circumstances.

All I think Mr. Renwick is asking for, if I may try to put it in another way, is that if there is nothing in writing from CDIC outlining precisely the nature and extent of their commitment and their view of their legal authority for that commitment, within their terms of reference and within their statutory authority, if that does not exist now--and you said it doesn't exist--if we have what appear to be a series of phone calls and meetings and understandings with Mr. Humphrys and others who are acting on behalf of the CDIC board--

Mr. T. P. Reid: It's like Mr. Player's \$109 million.

Mr. Rae: --can we not get it in documentary form? It's the CDIC condition that is leading the minister to say that there are no other alternatives, that this is the only thing that we can do. If that's true, can we not have that in writing? I think that's all that Jim is asking for. Is that fair?

Mr. Renwick: Yes.

Mr. Macdonald: If I can respond to that in two ways, we will certainly convey that to CDIC after this meeting is concluded today and see whether the lawyers can frame something for CDIC and the minister to sign between now and Monday.

The second thing that the minister hoped to be able to do to assist the committee was to see whether someone from CDIC could be present. I placed a call yesterday to that end and heard this morning that this is probably possible, but unfortunately, because Mr. Jim Tory, of the Tory and Tory firm, who has been advising CDIC, was not able to reach Mr. Humphrys until late last night, it wasn't practical for them to be here this morning.

I don't want to commit on behalf of Mr. Tory and Mr. Humphrys, but I believe that, knowing the nature of your interest and the central importance which I think you properly attach to this component underlying the introduction of the bill, that they be here on Monday, I believe they will be here on Monday.

Mr. Conway: I would only add to that, Mr. Chairman, if I could quickly make the point that we have made through my colleague from Rainy River (Mr. T. P. Reid), that it's important for us to know, in terms of these directions and conditions from CDIC, what specific injunction they have offered with respect to time limits.

The urgency, as has been indicated, is very real, but I would like to have some idea in your discussions with CDIC, in line with the questions that were asked by the member for Riverdale, have they specifically set out some kind of a timetable that would help this committee understand more specifically and more fully the nature of the urgency that brings us to the deliberation of this exceptional legislation?

Hon. Mr. Elgie: I think you've put two very valid points. If we can kind of confine the discussion to finding out those two specific points, I can have Mr. Biddell here answer one

part of it and Mr. Shuve comment to you today with respect to the concerns about Crown as an ongoing business that is still something in which purchasers are interested.

Mr. Renwick: Mr. Chairman, I am really trying to assist the committee. Before we go off into discussions in a random kind of way, I would like the committee to have sort of a dossier, if I could use that dreadful term, available to each member of the committee with some fundamental information about it.

I understand about these arrangements and that, in some way or other, there will be some kind of a memorandum by Monday, and I hope that perhaps you will not allow the lawyers to bog it down to the point where we shall not understand the document that we get. We need that document.

Mr. Conway: There are enough Queen's counsels here to help us out.

Mr. Renwick: Mr. Minister, perhaps Mr. Macdonald would give me the name of the person who is acting for the registrar in the discussions with Mr. Humphrys.

Mr. Macdonald: Mr. Richardson, of Woods Gordon.

Mr. Renwick: Perhaps Mr. Richardson would be good enough to be here on Monday, if that is possible. What I am trying to say is that these arrangements are the foundation of what we are talking about. I think the committee has to understand it, and I do not want to labour it any further.

The third item I would like to go on to is that the minister, in his statement introducing the bill, said: "I would point out, Mr. Speaker, that in our review of offers to date, none of them contemplate the takeover of Crown Trust in its present financial state."

Perhaps it would be appropriate for the committee, not necessarily to have in writing the offers, although it is fine if that is convenient, but we would like to have an indication in a memorandum of what were the offers and from whom and when they were solicited, and what were the questions that were asked when you solicited the offers.

If it is incorrect for me to use the term "solicit," despite what the Supreme Court of Canada said in another context, I would like to know all you can allow us to know about who the parties are, what were the discussions, and what led up to this review of the offers to date.

I was intrigued and interested to read on Sunday about the deadline of whatever invitations had gone out, to whomever they had gone, which appeared to me to be a different area. I should like to know what were the invitations which went out, for which I believe the deadline for responses to be received was 1 p.m. eastern standard time last Sunday. I should like to have that information, in as full and complete detail as possible, about persons interested in being the ultimate purchasers of some or all or a portion of these assets. That is the next area.

The last of my areas of concern--I am sure other of my colleagues can think up basic pieces of information they would like to have--is I would like to have, in graphic and illustrative form, the borrowing base of Crown Trust at September 1, 1982, if that is the date from and after which the deterioration in its affairs took place.

I would like to know what is the present borrowing base of Crown Trust, with respect to the deposits which can be supported by that base, if I understand the process properly.

Third, in relation to the borrowing base, I would like to know--and I make no value judgements upon it--what was the specific effect on the borrowing base of Crown Trust when the minister or the registrar determined that the value of the properties was \$300 million and not \$500 million; what was the effect of that determination in value in reducing the borrowing base; and, apart from any other infractions that may have occurred, what was the effect of that on precipitating the arrangements which now have to be made.

12:30 p.m.

My mathematics are not very good, but when you knock off \$200 million from the value of properties of which some portion was in the Crown Trust portfolio, whether it was \$56 million or \$63 million of that mortgage, if you knock that out of the borrowing base and if the deposits which can be supported are somewhere between 12.5 and 20 times that amount--

Hon. Mr. Elgie: It is 20 times for Crown Trust.

Mr. Renwick: I see. Then I should like to know what effect precisely the determination of the minister had in the reduction of the borrowing base.

Last, I would like to know whether or not, apart altogether from that determination of the minister, what deterioration there was in the borrowing base, apart from that question of knocking out whatever the eligibility of the investments was.

I don't know whether I have made myself clear.

Mr. Rae: Pretty good, James.

Interjection: Sure.

Mr. Renwick: It is a borrowing base question, which I think this committee has to understand in the most graphic and simple way, because I guess that is what we are talking about.

It does seem to me that if we could have a file of that kind of basic information we could perhaps efficiently go about our understanding of this bill which is requested. All of this, of course, is essential before we move into the minute discussion of the bill on a clause-by-clause basis.

Mr. Peterson: I want to go back to the first principles of this bill, the rationale for this bill. I want to spell it out as I see it, but I want you to feel quite free to disagree with my analysis, particularly in the light of the new evidence or whatever that came forward by Mr. Player yesterday. I am not suggesting that is accurate or validated at this point. It may or may not become so at some point in the future.

I understand what he is saying is that those buildings are worth half a billion dollars. Your position rests on the fact they are worth \$300 million. You are saying thereby, with \$375 million worth of mortgages on those buildings they are therefore overmortgaged, they are therefore in violation of the Loan and Trust Corporations Act, and therefore the third wraparound mortgages to those three trust companies, for a total of \$152 million, are in violation of the Loan and Trust Corporations Act, thereby ruining the security for those mortgages. The next logical extension for you is saying that those trust companies have an insecure asset base.

Do you agree that that is basically your logic?

Hon. Mr. Elgie: That is very accurate.

Mr. Peterson: Mr. Player is saying they are worth \$500 million. He is saying that they have an arm's-length transaction. I do not speak for him. I am just trying to sort this whole thing out, because what this is possibly boiling down to is a very simple question about what those buildings are worth. I may be oversimplifying, and you help me out, because you have some of the finest minds in this country sitting at this table.

Hon. Mr. Elgie: Maybe I could ask Mr. Macdonald to comment on that. I did so in the Legislature.

Interjections.

Mr. Peterson: Just so that I understand, and I want to put this in context before I finish, Mr. Player has been running this kind of deal for years. I will prove it to you if you want me to.

He has been running this kind of deal on smaller transactions for a number of years, whereby he would take Seaway into taking a big second mortgage over the face value of that building, at least over what it was sold for. He would throw in MURB money coming in the back end to support that because they did not have the income stream from the buildings to pay for that. That has been going on for a couple of years.

You presumably--Mr. Thompson is here--knew about that. You presumably gave your tacit approval; at least you had the power and the obligation under the law to go in, look at those books and alter them if you disagreed with them. So presumably these people gained some confidence, and the pattern of a lot of those deals had been worked out before between Seaway and Kilderkin for some period of time.

Then they applied those principles to the big deal. They are adding the added fact in here that it was an arm's length transaction on the third sale to the numbered company, so it was not as if it was a question of insiders; you may have different information. They don't have the income to support it, but they didn't in the other buildings, so therefore he is saying, presumably, he has got \$15 million on deposit in Crown to cover any shortfall. In addition to that, if you are not happy with that, he has \$109 million sitting in a Grand Cayman bank, against which he can draw to make up any deficiencies. Therefore the sale is good; therefore the mortgages will be honoured; therefore the mortgages are valid; therefore the security behind the trust companies is valid; therefore your whole bill is unnecessary.

Hon. Mr. Elgie: Mr. Macdonald, would you comment on that?

Mr. Peterson: Am I oversimplifying it, Mr. Macdonald?

Mr. Macdonald: I don't know whether you are oversimplifying; you may actually be complicating it. I think one has to distinguish between the possible value of a covenant to make mortgage payments and what happens if, for whatever reason, the covenant obligation is defaulted and one must look to the real estate as the source of value.

The advice available to the minister and his advisers during December and prior to the introduction of the bill on December 21, which was further confirmed between December 21 and the action of the cabinet on January 7, was that no prudent lender, looking to the possibility that he would have to re-expose that property for sale in the marketplace, would have placed a value of more than \$300 million on it. The minister has never said, nor have any of his advisers that I am aware, that the property is worth \$300 million.

Mr. Peterson: You said that--

Mr. Macdonald: We said it could not be worth more than \$300 million and, given that there were first and second mortgages of about \$225 million, it was impossible that any part of the third mortgage, even at a \$300 million level, could qualify as a proper investment for a trust company.

Mr. Peterson: Let's just clear this up. My recollection--and Mr. Beddell can correct me if I am wrong--is that the operating premise for all of the government action was that they worth in the \$300 million range. That has to be your operating premise.

Mr. Macdonald: The operating premise was that no prudent lender would attach a value of more than \$300 million. There is no operating premise as to the precise value of those, simply that it could not exceed \$300 million, and that is the only operating premise that was required.

Mr. Peterson: So by definition those subsequent investors are not prudent.

Mr. Macdonald: Pardon me?

Mr. Peterson: By definition the subsequent investors, Kilderkin and--

Mr. Macdonald: No. They may or may not have been prudent from their perspective, but I think what one must remember is that the perspective of this minister is a limited one, but an important one. He has a regulatory obligation in relation to the protection of depositors who entrust their funds to a licensed deposit-taking institution. What he has to face is not whether, on a speculative basis, some transaction may or may not work out as people who are involved in the transaction hope it will. He must ask himself whether or not, in the case of mortgages, the real estate value is supportive of those mortgages, the principal amount of those mortgages is not more than 75 per cent of the real estate value and the real estate value is independent of whether or not the covenantor paying money on the mortgage may be good or bad.

12:40 p.m.

Mr. Peterson: With great respect, you have just contradicted yourself. You said you have not had an operating premise as to the value. I am telling you you have.

Mr. Macdonald: I said we have an operating premise that the value did not exceed \$300 million. I said that we did not have to have, and did not have, an operating premise as to a specific value. All we needed to know was that a prudent lender would not lend more than \$300 million.

Mr. Peterson: You are saying it is anything up to \$300 million, not more than \$300 million. So you applied a value judgement to those buildings, which you have the right to do under the law.

Mr. Macdonald: The obligation.

Mr. Peterson: You have the obligation to do it. Why didn't you do it for the last two years when you had the obligation on a whole bunch of other transactions, albeit smaller in value? Why is it now--

Mr. Macdonald: Don't point at me. I wasn't around.

Mr. Peterson: You are the spokesman now, Mr. Macdonald.

Mr. Chairman: Mr. Peterson, I would point out that he is speaking at the instructions of the minister.

Mr. Peterson: All right, Mr. Minister, this is fundamental and germane to this entire issue, as I see it, because the whole thing hinges on the valuation you have put on it. You have said it is worth no more than \$300 million; that is your operating premise. Other people--

Hon. Mr. Elgie: That a prudent lender would not put more than \$300 million, and we accept that premise, yes.

Mr. Peterson: So we agree.

Hon. Mr. Elgie: With great respect, Mr. Chairman, we are dealing with an act relating to Crown Trust. I clearly said, and I have said it many times, that there other issues related to the other two trust companies and related to the practice and procedures of the ministry, but the matter before us today is the issue of Crown Trust and the actions of the government in respect to it. I will ask people to comment on that aspect of things, and another day will be for discussion on other matters.

Mr. Peterson: Okay. The gut issue here is \$130 million worth of so-called soft assets in Crown that allows you to move in, that you are moving in because you have got \$130 million worth of soft assets. They are roughly \$53 million to Daon, which you told me today has been solved.

Hon. Mr. Elgie: NO, I didn't say it had been solved. I said we could talk about it.

Mr. Peterson: We got \$63 million on this deal, plus--

Hon. Mr. Elgie: As you know, Crown Trust, in anticipation of the proposed purchase of Greymac Trust shares, advanced \$7.5 million to Mr. Rosenberg. There are matters before the OSC now relating to that, so I am not prepared to comment on it further at the moment. There is another loan to Carlyle Eagle in the amount of \$2 million, secured by shares, and there is another loan to Kincorp Holdings in the amount of \$3.8 million, on the basis of promissory notes.

Mr. Peterson: These are small by comparison. It is certainly an arm's length transaction, which I understand. You can give me the details if you want to, but the two big deals are the Daon deal and the \$63 million that has gone into this deal. Presumably, you could have withstood an assault on those little ones, but it is these two big ones that are really the killer and become the issue of why you moved in. We will talk about Daon in a minute, but let me just talk about this \$63 million back on this deal. The only reason it is soft is that you have said a prudent lender would not pay more than \$300 million for these properties.

Hon. Mr. Elgie: That is not quite right. Nobody said that a prudent lender would not lend more than 75 per cent; and we said it is 75 per cent--at the most, \$300 million.

Mr. Macdonald: Mr. Chairman, I would just like to correct something that I don't think Mr. Peterson really intended. If the asset is soft, it is not because of anything the minister says, it is because of the reality in the marketplace.

Mr. Peterson: Your assessment of the reality in the marketplace. I am just trying to be fair. Mr. Player, certain Arabs, if in fact they exist, and certain other trust company officers have a very different view of reality than you do. Would you not agree with me?

Mr. Macdonald: Well, Mr. Chairman, they have a very easy way of providing a test of their view of reality, and that is they could buy these mortgages at their principal amount if that is their view. There is nothing in this bill that prohibits them and no one has yet come forward either from among their group or from anyone else in the community who believes that these are mortgages that they would like to pay this price for.

Mr. Peterson: This is your idea of poetic justice then, that because they are not prepared to buy them back--

Mr. Macdonald: Mr. Chairman, I will give Mr. Peterson at some other time my view of poetic justice if he would really like it.

Mr. Conway: Since you were prepared to give it to the editorial boards of certain newspapers, I would have thought that in some deference to this Legislative Assembly you might have at least taken the opportunity, but that is perhaps another point.

Mr. Macdonald: I was going to say, do you really want me to--

Mr. Conway: Well, it sure as hell bothered some of us to see it on the front page of a newspaper, Mr. Macdonald, with all due respect.

Mr. Rae: Rather than at a private meeting of the Liberal Party. That is what bothered you.

Mr. Chairman: I think in fairness I will call on Mr. Brandt and then Mr. Rae. Let us get back into the order.

Mr. Peterson: I certainly have not finished, unless you have a new closure rule you are introducing.

Mr. Chairman: No, but you are on a supplementary. Carry on.

Mr. Peterson: I want to discuss this Daon matter too, and perhaps you can tell me the status of that. I read in the paper it has been shoved down to a second, following some bank. What is the security there?

Hon. Mr. Elgie: I will be pleased to comment on that for you, subject to anything that Mr. Biddell may wish to add. If you recall that Crown Trust advanced \$53 million on the construction of a large downtown commercial building in Vancouver because it was in trouble. It has all been advanced and the bulk of it went to a bank. There was also--the phrase may not be right--a letter of credit given for \$10 million which has not been called and which will not be approved. The situation that confronted those operating Crown Trust in the past two weeks is the fact that they have a shell of a building in downtown Vancouver approximately 40 per cent complete in a soft rental market and they have an absence of financing to complete it and have the very real potential in the eyes of the British Columbia government that construction on that building would cease completely.

On that basis, discussions were commenced by those operating and acting on behalf of Crown Trust as to what we might do to better ensure the viability of the moneys advanced by Crown. It was concluded that the only real possibility of improving the acceptability of that outlay of money was to agree by order in council to having that mortgage become a second mortgage to moneys put up by a bank up to the extent of \$100 million to allow the completion of the building and with that bank then renting a significant portion of the building and to allow construction to proceed, ending the real danger that it was going to stop.

That decision to do that was not reached in any haste. Rather, it was a decision reached after independent evaluation by Mr. Biddell, by Mr. Richardson, and then in turn by consultation with the advisory committee relating to the registrar's position. By that I mean Mr. Allen Lambert, Mr. Tom Bell, Mr. Shuve, who is here, and the other two gentlemen, Mr. Taylor and Mr. Voelker. It was agreed that this was the most acceptable and only viable option in order to try to retain a better return on the moneys that had been placed--

Mr. Peterson: How secure is it and what is it worth?

Mr. Biddell: We do not know what it is worth. It is a half-completed office building in downtown Vancouver. Crown had put \$52 million in it and had a first mortgage position, but Crown also had a legally binding commitment to subordinate that first mortgage to moneys to complete construction of the building. We, and the advisory committee to Mr. Thompson, headed by Mr. Lambert and others, looked at it very carefully and there were extensive discussions with the Bank of Montreal, which was planning to provide the construction funds.

12:50 p.m.

Only yesterday, I believe--it could have been the day before--was agreement reached, and a recommendation was made to Mr. Thompson with which he concurred, that that commitment that Crown had outstanding would be followed up, and it was agreed that Crown's first mortgage position would be subordinated to the construction funds to allow the building to proceed.

We all decided that that was far and away the best opportunity for Crown to realize anything at all on the \$53 million. How much it will recover we will not know for a year or two until the building is completed and, hopefully, fully rented. Certainly there is no anticipated recovery on that \$53 million for at least two years.

Mr. T. P. Reid: It's another Minaki Lodge.

Mr. Peterson: You mean no interest payments or anything?

Mr. Biddell: We are going to get \$5 million of it back when the Bank of Montreal comes in.

Mr. Peterson: Of capital?

Mr. Biddell: No, no.

Mr. Breithaupt: No capital return is expected.

Mr. Peterson: Are you getting interest payments?

Mr. Biddell: There will not be any interest payments I do not believe until such time as the building is completed and probably well along to be rented. I do not have the precise details of the subordination arrangements with the Bank of Montreal. I can obtain them.

Mr. Peterson: Are you rolling up that interest? Are you deferring interest?

Mr. Biddell: Oh, yes, we are deferring it. No way was any commitment given to forgiving interest.

Mr. Peterson: So it is a business judgement. You may be right, you may be wrong. You may get your dough back, you may not get your dough back. Nobody knows at this point.

Mr. Biddell: Quite right.

Mr. Peterson: And nobody is prepared to assign risk factors to it, 20 per cent, 50 per cent--

Mr. Biddell: Yes, there are very high risk factors, but we did not have any alternative.

Mr. Peterson: Okay, in your judgement you did not have alternatives.

Mr. Biddell: That's right.

Mr. Peterson: That is fair enough. You are being paid to exercise your judgement, but you are also being subjected to scrutiny for that judgement too.

Mr. Biddell: I am sorry.

Mr. Peterson: This is still not a dictatorship, and that will remain to be seen one way or the other.

Back to this Crown thing, because I see the whole thing increasingly hingeing on this question of valuations, your business judgement, the business judgement of the registrar who is legally responsible for all of this. I say this with no great disrespect personally, but I have not seen very much to merit any faith in the judgement of the registrar or the minister.

Over the past two years we have seen these things, and I gather you do not want to talk about this now, Dr. Elgie, about the identical kinds of transactions that were going on and which you allowed right under your nose. This is the first time that I am aware of where you have decided to exercise your judgement,

revalue buildings and then draw the conclusion it is so serious we have to step in and take over all of these assets, with the concomitant damage to the reputation of the entire industry. I mean the repercussions of this thing are far from over.

You obviously thought it was very, very serious. You obviously thought the value was not there and you thought it was not there because of the \$300-million valuation. It is that simple.

Let us assume what Mr. Player said is right and he can validate it; I do not know whether he can or cannot. Let us say that those Arabs bought those buildings at arms' length for \$500 million, knew what they were doing, were prepared to back up the deposit. Why would you not, at that point, say: "Well, a prudent Arab investor is prepared to spend \$500 million on those buildings; therefore they are worth \$500 million. It is only mortgaged at \$375 million, so it roughly conforms with the 75 per cent rule and we have covenants to back that up"?

Hon. Mr. Elgie: Mr. Macdonald, would you respond to that?

Mr. Macdonald: I might respond to that in this way. If there really was a sale of \$500 million--and it remains, however many months later, unclear that there was--if in the books of the companies that made these loans there was any evidence of the financial viability of the borrowers of these mortgages that gave one confidence that the mortgages could be paid for and that would have been normal in any responsible lending institution of which I am aware, then one would have had to consider at that point, whether one of two things was possible: that the evidence of value in the market place that responsible people, and including as tough-minded people as Cadillac Fairview in terms of getting the kind of price that they felt they can get, and of as good valuers as Laventhol and Horwath, who did the valuation for Cadillac Fairview, and in the light of the fact that the buildings were on the market for a number of months without any buyer before this happened, and on the basis of cash flow assumptions as to what this, as a piece of real estate, could hope to generate as a piece of real estate; if there had been real money clearly there, one would have had to assess all those negative factors, and it would have still told you it was not more than \$300 million, whether that ought to override their judgement and find that the market had suddenly moved up from \$270 million by a very tough professional operator to \$500 million, you would have been sceptical about that.

Laying that aside, if one concluded that there were aspects of this transaction that were not completely real-estate related, even if there appeared to be money available that was unrelated to the real estate--that is, a source of funds unrelated to the value of the real estate that was available or partly available to service the mortgage--that fact would not alter the real estate value. The real estate value is the value that property will get in the market when it is re-exposed.

You have quite properly pointed out that judgement was involved in the decisions of the minister and the registrar, leading first to the legislation and then to the order in council. That's the problem with being a regulator. The judgement that had to be made was whether, on the basis of everything one saw, one could continue to allow these companies out there to receive deposits from the public, or one came to the conclusion that there was not a borrowing base sufficient to support that continued privilege.

Mr. Renwick has asked for, in my judgement, the absolutely right material in order to enable this committee to focus on the issue of the borrowing base. But it was not something where the responsible regulator could say: "I just won't bother to make a judgement." He had no alternative but to make the judgement. Having made the judgement, he's got no alternative but to present the basis on which that judgement was made.

Mr. Peterson: Why did this responsible regulator allow, I think, 39.6 per cent of the mortgage portfolio of Seaway Trust, some \$70 million, to go into absolutely identical deals over the past two years, where, on the very same logic you have just explained to us, it would have been a clear violation, grounds to revalue, grounds to move in seize Seaway Trust two years ago? You explain that to me.

Mr. Macdonald: As I have said, I advised the government and the minister in respect of the problems arising in the initially presented form of the Cadillac Fairview transaction. That has been my mandate. My mandate does not extend to discussions that you're raising.

1 p.m.

Mr. Peterson: Let me tell you, those so-called soft assets in Seaway developed over a couple of years represent a higher percentage of the portfolio than do the so-called assets in Crown. In other words, by proportion it was a much bigger deal and should have called attention.

I say to you again that the bad habits these so-called financiers and trust company owners acquired in the past two years were applied identically to this situation.

Mr. Macdonald: From my perspective, in terms of the advice that I was called upon to give--

Mr. Peterson: Well, let Dr. Elgie answer this.

Hon. Mr. Elgie: I've answered that before many times in the Legislature--

Mr. Peterson: Not to me.

Hon. Mr. Elgie: --and matters related to the other two trust companies will be before the Legislature for those discussions. I hope that you want the kind of balance, when they are discussed, that I want. That is my sole aim, that they will be discussed.

Mr. Peterson: I am very dissatisfied about getting this piecemeal--

Hon. Mr. Elgie: I understand what you are saying, but let's keep our eye on the centre of the experience here then.

Mr. Peterson: --with your frankly hypocritical view, that you'll tell us this but not this, you move in then but not then.

Mr. Rae: If Mr. Peterson would allow a supplementary just on this point--

Mr. Chairman: Excuse me, Mr. Brandt, are you also allowing the supplementary?

Mr. Brandt: Not on this point. It was on the earlier point some hours ago on Mr. Renwick's original point. If it's appropriate now I can raise it.

Mr. Renwick: I'll speak to you privately about it.

Mr. Brandt: Do you promise not to tell?

Mr. Chairman: Then there is Mr. Reid and Mr. Cunningham. Do you all wish to defer and let Mr. Rae have a supplementary on this point?

Mr. Cunningham: My original supplementary--

Mr. T. P. Reid: My question is about the original valuation. I would like to see tabled the valuations done for the government, for Mr. Thompson and for the minister, by the real estate people or whoever in his ministry, valuing those properties at whatever they were valued.

We have heard about a judgement call, but I would like to see the document that says, "In our view, on the market today these buildings are only worth \$300 million." I would like to know who did it. I would like to know the date they did it and I would like to know what credentials they had for doing it. I would presume that there would be more than one valuator in a deal this size.

We have heard this morning about Mr. Harkness, I think, of Queen's University, albeit for Mr. Player presumably, who says that these buildings might be worth almost \$600 million. Without those documents we can't make a judgement.

Mr. Peterson: Have you looked at their valuation? Have you looked at Mr. Player's valuation? He sold this to, presumably, people who are somewhat aware. On the other hand, have you looked at his interpretation?

Interjections.

Mr. Peterson: The answer was no.

Mr. Swart: On a point of order.

Mr. Chairman: Mr. Swart has a point of order.

Mr. Swart: What is the list that you have? Is Mr. Peterson in the right place in the order? Is he on a supplementary?

Mr. Chairman: He did get a supplementary to go in here ahead of Messrs. Cunningham, Brandt, Reid, Rae and Renwick.

Mr. Peterson: With great respect, it was not a supplementary. Mr. Cunningham deferred his place to me.

Mr. Chairman: Yes, he did. That's correct.

Mr. Peterson: That's not a supplementary.

Mr. Chairman: No, that's a supplementary when you go ahead. He permitted you to go ahead of him on a supplementary.

Mr. Peterson: I'll have to read your dictionary.

Mr. Chairman: I think we are back to Mr. Peterson.

Mr. Peterson: Just one last question. I'll make this easy for you.

You've got your own valuation saying it's not worth more than \$300 million or a prudent investor wouldn't invest. You are going to table that with this committee and we will have a chance to look at it.

Hon. Mr. Elgie: I haven't indicated that.

Mr. Peterson: I am asking you to do it.

Hon. Mr. Elgie: The cabinet had before it material that satisfied it, but I will have to take that under advisement.

Mr. Peterson: I want to ask you this: Have you seen any of Player's documentation, or this Professor Harkness, whoever he is, his analysis of the values of those buildings? Have you looked at their documentation and did you contemplate that when you were putting your own valuation on the buildings?

Hon. Mr. Elgie: The valuations you are speaking of would, of course, be material that Woods Gordon reviewed prior to preparing the interim report which I presented to the Legislature and which I have indicated today, in view of the fact that the Daon Development Corp. matter has been resolved to an extent, can be tabled with this committee in its entirety.

Mr. Peterson: So you will table those other valuations of buildings?

Hon. Mr. Elgie: I will table the Woods Gordon report, and I indicated that earlier.

Mr. Peterson: Did you discuss these valuations with Mr. Player earlier? Did he come and say, "Look, they are worth \$500 million and I can prove it"?

Hon. Mr. Elgie: Have I discussed it with Mr. Player?

Mr. Peterson: Has anyone? Have you ever discussed the value of those buildings with Mr. Player and heard his interpretation?

Hon. Mr. Elgie: As you know, Mr. Player, and I believe his counsel, met with Mr. Crosbie and explained the value principles on which he was operating.

Mr. Peterson: You know, the more I listen to you, the more I think you have done what you have done on the thinnest of pretexts. You owe us a much bigger explanation. I'm telling you, the more I hear from you guys the more worried I am.

Hon. Mr. Elgie: Let me tell you, I'm not worried, and I'm convinced we're on very solid ground. I have no worries about that. I have put myself on the line about it, my friend.

Mr. Swart: May I have a supplementary directly on the question of valuations?

Interjections.

Mr. Chairman: That's correct. These other people-- Mr. Brandt.

Mr. Brandt: I will be as brief as I can on this. It follows the line of questions that were raised earlier by Mr. Renwick.

I think it would be helpful to the committee if we could have information relating to the division of assets that are being proposed in the context of Bill 215. The bill very specifically says that certain assets and obligations are contained within this bill and ostensibly would be sold. I think the earlier references to a financial statement would be helpful, but by extension it would be helpful as well to know exactly what part of what percentage and the detailed information relating to those assets that would be disposed of would also be helpful to the committee. I would like to add that to the list that my colleague raised.

Interjections.

Mr. Watson: I draw your attention to the clock.

Mr. Chairman: The attention of the chair has been drawn to the clock. It is past one o'clock, our usual time to rise. We only sit beyond that on unanimous consent.

There is a Crown Trust annual report, 1981, being distributed at this point, with the 1982 interim report for the nine months ended September 1982. Shall we adjourn now to reconvene following routine proceedings on Monday next?

Mr. Rae: We have no objection to hearing from Mr. Shuve.

Mr. Renwick: It was ruled we can sit any time we want.

Mr. Chairman: No. We can sit any time we wish within the precincts of this building outside of the times when the House is sitting. At that point we need the order of the House. You will recall that we went to the Clerk of the House on Bill 179 and had this spelled out to us very intricately.

Interjections.

Mr. Brandt: If it is possible, perhaps we could resume informally without motions. Some of the members do have to go.

Mr. T. P. Reid: It has to be on the record.

Mr. Brandt: Some of the members do have other obligations and have to go.

Interjections.

Mr. Brandt: I am not trying to be obstructionist; I am trying to be helpful.

Interjections.

Mr. Brandt: We can resume without votes.

Mr. Chairman: Is it the understanding that we reconvene without any votes? Does each caucus agree? Do we have consensus? The NDP?

Mr. Rae: For this period now?

Mr. Chairman: Yes, for today.

Right, that is the consensus.

The committee recessed at 1:07 p.m.

1:10 p.m.

Mr. Chairman: We are back on the record. We are reconvening for the purpose of hearing from Mr. Shuve. It is understood it is the consensus of all three parties that there will be no further votes today. That is agreed.

Mr. Renwick: The next time the clock is recognized, that is it.

Mr. Chairman: The next time the clock is recognized, that will be the final recognition of the clock.

Mr. Conway: In the Ontario Legislature, we all know that just about anything goes.

Hon. Mr. Elgie: Mr. Chairman, prior to hearing from Mr. Shuve, I wonder if members would consider it appropriate, to start off any comments or questions that you might have relating to Mr. Shuve, if I were to read you a letter that he wrote to the registrar, dated January 27, 1983, and you can have a copy of this.

"Dear Mr. Thompson:

"I am writing to you to express my concern over what is happening to the estates and trust business of our company as a result of our inability to assure our clients that Crown Trust Co. will be continuing in business under responsible management and control.

"Notwithstanding very major efforts by our staff, most of whom have long service with us, and very few of whom have left since Mr. Rosenberg took control of our company, a considerable number of our long-time trust clients have taken their accounts to other institutions. Since January 7 of this year, in Montreal and Toronto alone, we have lost 55 personal trust accounts, two major pension fund accounts, and three significant corporate trust accounts. In other branch offices, we have also lost a significant amount of business.

"Every day myself and my staff are speaking with other significant clients who are becoming seriously concerned because they are losing confidence in our ability to hold the business and organization of Crown Trust together.

"We have an excellent staff and a valuable trust client base. I fear that, unless by the end of this week we are in a position to positively assure both our staff and our clients that our business is going to continue under proper auspices on a permanent basis, the erosion of our business will quickly become so severe as to threaten the future viability of this 88-year-old institution.

"Yours very truly,

"C. Shuve."

Mr. T. P. Reid: Why do you not give that assurance publicly now of continued operation?

Mr. Chairman: Gentlemen, we reconvened to hear from Mr. Shuve. Mr. Conway did ask permission and I gave a signal for a very short comment because we are staying here to hear Mr. Shuve. So if you have a point really germane to that letter--

Mr. Conway: Absolutely. I have been anticipated by at least two of my colleagues. Mr. Minister, did I hear correctly that date was January 27, yesterday?

Hon. Mr. Elgie: Yes.

Mr. Conway: Mr. Shuve, the question that would recommend itself to--

Mr. Rae: What happened to the old list? Did that dissolve whenever you recognized the clock because I seem to recollect I was on that list ahead of Mr. Conway.

Mr. Chairman: Mr. Rae, that disappeared. That will carry on on Monday. We are staying here to hear from Mr. Shuve. We reconvened.

Mr. Conway: I have just one quick question. Mr. Shuve, the question that would recommend itself to many of us is that, notwithstanding what you have said in your letter of yesterday, is what would be wrong and would prohibit the government of Ontario from giving a very firm, direct assurance along the lines of your invitation in that letter, so that there would be confidence in the community at large that this 88-year-old trust company is going to continue because the government of Ontario says it will not see it collapse? What is wrong with that happening?

Hon. Mr. Elgie: Mr. Chairman, with respect, that is a political question being put to Mr. Shuve. The government of Ontario, through its agents, has had discussions with the Canada Deposit Insurance Corp. and has tentative arrangements in place that will be consolidated if there is a firm commitment that this legislation will pass on a fixed date.

If I can have that from you today, my friend, I think we can solve our problems, but to ask Mr. Shuve about whether or not this government is prepared to do something it has no mandate to do is, I think, an inappropriate question. I can answer for him that this government is not prepared to do that because we have arrangements in place that are appropriate for the process and I am asking this Legislature to allow us to put them in place.

Mr. R. F. Johnston: If I might draw your attention to--

Mr. Chairman: Excuse me. We have had Mr. Conway. I will allow Mr. Rae. I will allow one Progressive Conservative, and that is it until Mr. Shuve makes his statement.

Mr. Rae: I want to ask Mr. Shuve some questions following whatever statement he has to make and following the chance to have a review of the letter which Dr. Elgie read to us on Mr. Shuve's behalf. Can we have a statement from Mr. Shuve and then have the regular tour of questions to Mr. Shuve?

Mr. Chairman: Can I hear from this party over here as to its representations on what we are hearing and where we are going, our procedures? We reconvened for one purpose.

Mr. Conway: I thought I heard an ex cathedra statement. Is it or is it not ex cathedra?

Mr. Chairman: You are going to have to get to the Latin. I only went to four years of law school. You are going to have to help me with that.

Mr. Conway: You are chairman of this committee. You made it very clear to me that you are to establish the rules that were going to govern this supplementary session. What are the rules?

Mr. Chairman: Since I extended them a slight bit for you, I will extend them also for a point by Mr. Rae now. He defers, he waives that.

Are the Progressive Conservatives waiving? Yes, by their hand signals, they are waiving. That is it. There will be a statement by Mr. Shuve. There will be no further discussion, cross-examination or questions of Mr. Shuve this afternoon.

Mr. Rae: With great respect, I do not want to be difficult. I thought that the understanding we had reached was the following: Mr. Shuve would make some sort of statement, in addition to the letter which the minister has read. On the basis of that statement, we would be allowed to ask certain questions of Mr. Shuve.

I do not think that is unreasonable. That is the way I thought we were planning to proceed. Is that unreasonable?

Mr. Chairman: First, that was not the understanding. At the point we reconvened we did not even know of the existence of this letter. Therefore, obviously, that was not our understanding.

Mr. Rae: In that case, I am making a proposal to you, Mr. Chairman, which I would ask you to put to the other members of the committee. Is it not reasonable that Mr. Shuve make some type of statement and, following that statement, other individuals be able to ask questions according to a list that you keep, which I would have thought would be the procedure?

Mr. Chairman: What I will do is allow him to go on and we will play it by ear, with everyone staying reasonable.

Mr. Conway: It seems that we have quite a different and new order and I appreciate that, Mr. Chairman.

Mr. Chairman: Yes, and we are going to see at the end where this leads. No votes. That is understood. No votes today.

Mr. Rae: With respect to the new list you now have, Mr. Chairman, I would just like at some point for my name to appear on that list.

Mr. Chairman: You are first on the list, Mr. Rae.

Mr. Shuve: The letter I sent to Mr. Thompson yesterday very clearly outlines the concerns which we had at Crown Trust, and I am speaking on behalf of the staff of Crown Trust, which numbers very close to 500 people. These people have been in the position for the past 23 days of not knowing where their future is. They have been dealing with our clients. They have been putting their own credibility on the line, assuring clients that everything is going to be fine.

We have had a lot of support from our clients. We have lost business and we are continuing to experience a loss of business. We are faced with the situation of uncertainty. I think the only thing that will resolve the problem and restore the confidence of the public in Crown Trust Co. and put the minds of the staff at ease is some action by the Ontario government, the Canada Deposit Insurance Corp., or whatever other body is involved, which will put Crown Trust Co. in the position of having all of the restrictions removed from depositors' funds so that the operation of the company may be returned to normal.

I think the other thing that is vital to our carrying on and getting things back to normal and retaining as much business as possible is the identification of new ownership of the company at the earliest possible moment. I assure you that the staff have made a tremendous effort to hold on to the business, to keep things going. They have acted very professionally. I am very proud of them, but it is becoming increasingly difficult. I think I have set that out in my letter to Mr. Thompson.

Mr. Rae: Mr. Shuve, does it matter to you whether you get that assurance from the government of Ontario or from the Canada Deposit Insurance Corp. or from anyone else? Does it matter to you where that assurance comes from as long as you get that assurance?

Mr. Shuve: I think that as long as we have the assurance, we can pass on to our staff and our clients the fact that everything is fine and that we are back in business on a normal basis. As far as I am concerned, I don't really care where it comes from. I wouldn't want to say that it doesn't matter. It does matter to me that it comes from a responsible source and I can rely on it.

Mr. Rae: You would consider the word of the Premier of Ontario (Mr. Davis) or Dr. Elgie himself, on behalf of the government of Ontario, as a reliable source to give you that assurance?

Mr. Shuve: Yes.

Mr. Rae: I think that is an important statement.

Hon. Mr. Elgie: My word is--

Mr. Rae: With respect, I was asking questions of Mr. Shuve and not of the minister.

Mr. Macdonald: In fairness to Mr. Shuve, it is obvious that neither the minister nor the Premier can make an assurance that encompasses a buyer who comes to the conclusion that what he thought he was buying is not, in fact, what he is buying. The Premier cannot guarantee that somebody will buy until somebody buys.

Mr. Rae: No one is suggesting that. I want to put this question to Mr. Shuve with respect to the future of Crown Trust. Would you prefer, or do you think the employees of Crown Trust would prefer, that the company carry on as an integral unit whose existence is guaranteed by the government of Ontario with the safety of its deposits guaranteed by the government of Ontario?

Mr. Shuve: I have just returned to the company within the last three weeks and I would not want to answer that question on behalf of the staff.

Mr. Rae: I can understand your reluctance, but you were speaking on behalf of the staff with respect to other matters.

Mr. Shuve: I would only like to say that I would like to see the ongoing operation of Crown Trust, in whatever form, be carried on under responsible ownership.

Mr. Rae: You say, "Since January 7 of this year, in Toronto and Montreal alone, we have lost 55 personal trust accounts, two major pension fund accounts, and three significant corporate trust accounts." Can you give us some sense as to what percentage of your business that is?

If I just may elaborate for a moment. You'll appreciate that if you have four significant corporate trust accounts and you've lost three of them, that is qualitatively very different than having 100 major corporate trust accounts and losing three.

Mr. Shuve: It would vary in the personal trust area. I would suggest that we are talking something in the area of two per cent to three per cent of the assets under administration.

Mr. Rae: You have lost two per cent to three per cent in the last three weeks?

Mr. Shuve: Right. In the pension area, I would think we're looking in the area of something closer to 20 per cent to 25 per cent, because those things tend to be large accounts. In the corporate trust area, I couldn't give you a specific percentage number. I know there are three out of many hundreds of accounts.

Mr. Rae: Out of many hundreds of accounts, you've lost three? That is somewhat less--

Mr. Shuve: I think the important part is that this is what we have lost to date. This state of uncertainty will cause us to lose considerably more over the course of the next weeks.

Mr. Rae: We understand that, and I want to make it very clear to you that we are posing absolutely no impediment to the government of Ontario making a public statement with respect to its guarantee of the future integrity of Crown Trust. Absolutely no impediment. In fact, I called on the Premier to make such a statement several weeks ago. I want you to know that for the register.

Hon. Mr. Elgie: You know that no statement like that can be made in the absence of an assured buyer under the circumstances that exist.

Mr. Rae: No, I do not know that, Mr. Elgie. With great respect I think one can say that is a matter of argument. We may differ in our opinions on that.

Hon. Mr. Elgie: Yes, we do, significantly.

Mr. Rae: That is fine. Now, Mr. Shuve, with respect to the withdrawal or loss of these accounts, how does this relate to the situation with respect to the size and so on of the CDIC guarantee? Are the people able to withdraw their accounts? How is this now operating? Can you explain that for me?

Mr. Shuve: With reference to the trust accounts which I have referred to in my letter, those accounts may be removed. There are certain restrictions on cash balances where the limitation is up to \$20,000.

Mr. Rae: But there is no restriction with respect to the size of a personal trust account that may be withdrawn?

Mr. Shuve: That is correct because there is no CDIC involvement in those assets. Those are not assets of the corporation, those are assets held in trust for clients.

Mr. Rae: As part of your trustee relationship; and there has been no problem with the withdrawal of those moneys? Is that causing you an immediate liquidity problem of any kind?

Mr. Shuve: No, that does not concern the liquidity problem of the company at all. That is a separate and distinct part of the operations.

Hon. Mr. Elgie: The essence is that is what makes these assets in this corporation something that a purchaser is interested in, the existence of them; that is what he is saying.

Mr. Shuve: These are the assets that earn the fee income of the trust company as opposed to the money side of the operation and which have always been a very important part of Crown Trust's operation.

Mr. Rae: Mr. Shuve, I have heard from a reliable source, as we say, that for a good period of time after the takeover on January 7 one of the problems that existed, and that may in fact have caused a number of personal trust accounts to be withdrawn and accounts to be closed, was that it was extremely difficult for the company to carry on in its trustee function because of a lack of, if I may say so, clarity with respect to exactly what the guidelines were for the receipt of instructions and so forth.

Is the trust aspect of your business operating now as normally as possible? Just what exactly is happening with the company as of today?

Mr. Shuve: The trust operations of the company are operating on a business-as-usual, very normal basis, subject to this \$20,000 limit on cash balances. That is the only limitation.

Mr. Rae: Instructions are being received, investments are being made, life is carrying on as usual?

Mr. Shuve: That is correct.

Mr. Rae: So there are no impediments to that carrying on, other than the fact that there appeared to have been a number of people who have withdrawn.

If I may ask a question with respect to the withdrawal of these accounts, could you chart out for us a sense of when these have taken place? Would it be a possible inference that a number of accounts were closed out in the first week, but that since that time things have stabilized, or is it getting steadily worse? Can you give us an account on that?

Mr. Shuve: In answer to that question I would say that the activity which I referred to in my letter, my specific account, in all probability took place in the first week of the possession. In the second week I think everybody was hopeful that this uncertainty was going to be removed and the restrictions were going to be removed, confidence was going to be restored and there was some settling down of activity.

Now that the process seems to be going on longer than anticipated, we are getting an increasingly great number of calls from our clients whom we had talked to last week and the week before and who were satisfied but now are beginning to feel uneasy because of the uncertainty which exists in the situation.

Mr. Rae: So you are saying that in a sense there were peaks and valleys in terms of the withdrawal. Would you say we are now reaching another peak in terms of the attempt to withdraw?

Mr. Shuve: At mid-week this week I think we were reaching a peak. I think that as of last night things seem to be settling down again and I think things with our staff have settled down. They realize that they have to go through another weekend before they know who they will be working for and in fact whether they will have a job, but we will survive this weekend. Mr. Thompson was good enough to come and meet with my staff yesterday, with Mr. Biddell, and I think that was very helpful to me and to the staff.

1:30 p.m.

Mr. Rae: I guess the company has been through a number of changes of ownership in the last few years, is that not correct?

Mr. Shuve: Yes, that is correct.

Mr. Rae: Would it be fair to say that it is against that background that the staff may have some concerns with respect to their security? There have been a number of layoffs within Crown Trust over the last few years, have there not?

Mr. Shuve: I really cannot answer that question. I have not been in the employ of the company for three years. I just came back on January 7.

Mr. Rae: But the size of the company, in terms of the number of employees, has been reduced rather significantly over the last few years, I understand.

Mr. Shuve: When I left the company in January 1980 there were approximately 500 employees and I believe that the number is basically the same today.

Mr. Rae: Is it going to be possible for you, and this perhaps is directed at the minister as well and at Mr. Macdonald, to give us on Monday, in slightly harder form, the actual nature of the loss of business as we have asked for it? When you talk about "In the other branch offices we have also lost a significant amount of business," can we get an estimate of exactly what that means?

I would like to know what actually has been lost in hard figures as much as possible.

Mr. Macdonald: Are you talking in the trust and estate business, Mr. Rae?

Mr. Rae: Yes.

Mr. Shuve: It is difficult to gather all that information together for this committee. It is also very difficult to measure in real terms the loss of business, because one of the assets that the trust operation of a trust company such as Crown has are all of those will appointments which are on its books for estates which will fall over the coming years. Those things can be withdrawn, the company's name removed, without the knowledge of the company.

It is that intangible kind of thing that is happening that gives me great cause for concern, because you cannot get to those people to say: "Don't change your will. Don't take the trust company out." We are not looking really in terms of the immediate loss of revenue. We are looking at what is happening to the future of the trust operation of Crown Trust Co.

Does that give you any comfort?

Mr. Rae: I can understand. I think all of us who have a sense of the way the world works understand that, in the light of the extraordinary events, not of the last couple of weeks, but of the last few months--I think ever since a number of people started trying to acquire Crown Trust.

You would agree with me that the Burnett takeover might have had an impact on a number of large trust investors. Would you not agree that that may have caused some concern to a number of people? That is why Mr. Renwick's question about the loss of business over time is fairly important for us. Would it be fair to say that there were concerns expressed at the time of that takeover by a number of large clients?

Mr. Shuve: I want to make it clear I was not in the employ of the company at that time, but probably your assumption is reasonably valid.

Mr. Macdonald: I think, Mr. Rae, what might just be helpful, in relation to the information that Mr. Renwick is seeking, my understanding of what he is seeking--and I think it would be helpful to the committee--is the balance sheet position, if you like, a year ago and the balance sheet position with the evaluation of certain assets reflected in it at the end of last year and at the time the registrar took over.

But I think in relation to the estate and trust fee income, knowing the time lags, as Mr. Shuve does, in terms of charging fees in respect of a lot of estate trust and agency matters, I am just saying it is unlikely that any figures--that is, any global financial figures--will show very much about what is happening and has happened to that income since September 1. I just thought one shouldn't create an expectation that probably can't be met.

Mr. Rae: Fine. I wouldn't want to do that, but in my questioning to you, Mr. Shuve, I do want to try to get a sense of-- There has been a lot said about diminishing confidence and erosion of confidence. I just wanted to get it on the record that this may have a history that goes back a little further than just the last couple of weeks. If the good name of Crown Trust has been facing difficulties, it's as a result of events in the market place that go back even prior to the January 7 takeover by the government.

I have one other line of questioning, if I may. It will take just a very few minutes, I hope. That has to do with the intermingling problem, if there is an intermingling problem, with respect to Greymac. The assertion has been made--

Mr. Macdonald: Excuse me. I would just ask so that Mr. Shuve is clear on the question, there are three Greymac companies, Mr. Rae. There are three Greymac companies. It might be helpful to identify which one you think it is.

Mr. Rae: My understanding is, according to the assertions that have been made by Mr. Rosenberg, that the affairs of Greymac Trust and Crown Trust were being steadily intermingled. It's my understanding that the application that was before the Ontario Securities Commission for a merger was between Greymac Trust and Crown Trust.

Hon. Mr. Elgie: One correction: before the securities commission was the issue of the acquisition of Greymac Credit shares in Greymac Trust and the issue of the follow-up offer.

Mr. Rae: Yes.

Hon. Mr. Elgie: Not the amalgamation.

Mr. Rae: The amalgamation question was going to be settled by the Lieutenant Governor in Council. Is that right?

Hon. Mr. Elgie: That would be a different and separate case, following a resolution of the shareholders. They were there with respect to whether or not the shareholders of Crown had sufficient information upon which to make a decision to purchase the shares of Greymac Trust.

Mr. Rae: What I am simply trying to find is to what extent the affairs of Greymac Trust and Crown Trust were or are intermingled as a result of the takeover of Crown Trust by Greymac Credit. My understanding is that Greymac Credit is the owner of both Greymac Trust and Crown Trust. Is that not correct?

Hon. Mr. Elgie: That is correct.

Mr. Biddell: Mr. Rae, would you permit me to try to answer that?

Mr. Rae: Sure.

Mr. Biddell: I was closely involved with Woods Gordon in their examination of the affairs of Crown. I think I am perhaps at least as well qualified as Mr. Shuve to reply to the question you have given.

The specific and largest transfer was a payment of \$7.5 million from Crown Trust to Greymac Credit. That was a downpayment on the acquisition of Greymac Credit's shares in Greymac Trust, as a preliminary to their proposed amalgamation.

Mr. Rae: I understand that. Right.

Mr. Biddell: There were a number of other relatively small loans, but they still ran into millions, that were made by Crown Trust to persons and affiliates of Greymac Credit and Greymac Trust. That's all that Woods Gordon were able to see in their investigation.

Mr. Rae: Are those loans in any way set out in the fuller, unexpurgated edition of the Woods Gordon report that we're going to get?

Mr. Biddell: Yes, that is right. The answer to that particular question will be set out in the full Woods Gordon report.

Mr. Rae: When we look at the question of parcelling out, which Mr. Brandt wanted to have settled--

Mr. Biddell: That will all be spelled out there too.

Mr. Rae: So that we will know then, if I refer to the bum assets and the good assets, we will have some sense as to how some people regard funds.

Interjections.

1:40 p.m.

Mr. Rae: I played squash just this week. I seriously think, however, that would be useful for us to know. Perhaps I can just say, on an anecdotal basis, that when concerns were expressed about Crown Trust--and many people said, "Well, nothing can happen to Crown; Crown has got this 88-year history"--I heard one observer say to me, on the phone: "Don't buy that argument. How long does it take to write a cheque?" I guess the question we want answered is, how many cheques were signed during the period in which Greymac Credit had access to the management and the administration of Crown Trust?

Mr. Biddell: The Woods Gordon report will reveal that.

Mr. Rae: Are we going to get that this afternoon?

Mr. Chairman: No, I think it was slated for Monday.

Interjections.

Mr. Biddell: We'll it be provided today.

Interjection: Saturday mail?

Mr. Rae: Could we have it for the weekend? That would be a big help.

Hon. Mr. Elgie: How will we get it to members?

Mr. Renwick: You could send the copies to Mr. Rae's office.

Hon. Mr. Elgie: We have four copies for each office.

Interjections.

Mr. Rae: I have no further questions.

Mr. Chairman: I guess the government House leader would be the last.

Mr. T. P. Reid: Mr. Shuve, did I hear you say that you had just come back from somewhere yesterday?

Mr. Shuve: What I was referring to was my return to Crown Trust Co. as the employment officer of the registrar. I retired from Crown Trust Co.

Mr. T. P. Reid: Yes, I thought you indicated you were out of the country.

Mr. Shuve: No, I have never been in the Mideast--

Mr. T. P. Reid: I thought you might have been down to the Cayman Islands.

Mr. Shuve: No, I have not been to the Caymans.

Mr. Renwick: You may know that the executive assistant to the Treasurer of Ontario is in the Caymans at present. Are you thinking of going there?

Mr. Shuve: No.

Mr. T. P. Reid: The January 27 timing of your letter is quite interesting. You're writing on behalf of the staff and, of course, the related business, but primarily the timing is interesting, given the fact that the minister introduced the bill on January 24. Presumably you would know better than most that the bill would be up for debate and that both opposition parties had indicated we would not unduly hold it up. What is the particular reason for writing the letter on January 27?

Mr. Shuve: I've been expressing this concern to Mr. Thompson, to the advisory committee and to all of the people involved in this situation since January 10 when I became actively involved in the operation of the company. I had been pressing this point on a daily basis, and I just felt that I could finally demonstrate to my staff that I was getting the message across to those people interested in it. It bears no relationship to the introduction of the bill or whatever goes on in this building. I am not very familiar with these things.

Mr. Macdonald: I should like to just add my role to this.

Mr. T. P. Reid: I was getting to you, Mr. Macdonald.

Mr. Macdonald: No, it's not getting to me.

Mr. T. P. Reid: No, I was going to get to you.

Mr. Macdonald: Oh, I see. After a well-publicized experience with journalists on Wednesday, I got back home about 9 p.m. and I had a package from my office. One of the memoranda in that package--which I would have no objection to giving to the committee, although I do not think it is all that interesting--was from a partner of mine, Mr. Fricker, who, as I understand, attends the meetings of the five senior advisers every day.

He reported a very sad, anxious and disturbed Mr. Shuve in that memorandum to me. So, because I wasn't going to be available on Thursday morning, I called Mr. Biddell and said, "It seems to me that Mr. Shuve really feels this way about it. He has an obligation, not just to say it orally to the committee, but to tell the registrar and the minister exactly what he feels so that they are apprised of it." I leave the scene at that point.

Mr. T. P. Reid: A good counsel always anticipates the next questions to come, and you have done it extremely well, Mr. Macdonald. My question was going to be to Mr. Shuve: Was it suggested or recommended, advised, or what have you, that you write this letter to the minister and the government, or did you do it on your own initiative? I take it from what Mr. Macdonald has said--

Mr. Shuve: It was done in consultation.

Mr. T. P. Reid: I see. That is very interesting.

Mr. Macdonald: That was not with me.

Mr. Shuve: Not with Mr. Macdonald. I haven't seen Mr. Macdonald for a couple of weeks.

Mr. T. P. Reid: There are those who might be slightly suspicious of the way some of these matters come up and the conjunction of Dr. Elgie's statement in the House about "it will be on your heads," and so on. Frankly, it makes the letter somewhat suspect in my mind.

Mr. Macdonald: Maybe I should produce the memorandum in order to reduce the suspicion because I certainly had nothing to do with the receipt of the memorandum. It arrived, as far as I am concerned, and I would like to assert this, in good faith from my partner.

Hon. Mr. Elgie: Unsolicited.

Mr. T. P. Reid: I have just one further question. Just to turn things around, we heard about the loss of business. Have there been any new accounts opened, fiduciary or otherwise, with Crown Trust since January 7? Has it all been downhill or are there people coming in, anywhere in the branches, and either opening accounts, inquiring about them or naming Crown as the estate representative?

Mr. Shuve: I am not aware of any new business that we have received in the trust area during this period. We have received various deposits and so forth, people are still depositing money in their savings accounts, but not in any significant amounts that I am aware of. I cannot be aware of everything that goes on in each office every day of the week.

Mr. T. P. Reid: What about new accounts? I will tell you the reason I asked, as related to one of the other trust companies, is that somebody opened an account with over \$20,000 in

it after it had been announced fairly widely that the whole thing was a shemuzzle. Somebody, known to me and some of my colleagues, went in and opened an account.

Hon. Mr. Elgie: You will be interested to know--and I don't have the exact details of it and I can't find it for you--the evening that the registrar took possession--I just tell you this for your own interest--and I believe it was at Crown Trust, and it is very difficult to believe--

Mr. Macdonald: Maybe it was in one of the others.

Hon. Mr. Elgie: --I am not sure which one, but there was a gentleman who insisted on getting by those who were at the doors because no one was going to prevent him from putting \$100,000 on deposit that evening because he wasn't going to lose the opportunity for the extra interest rate.

Mr. Swart: Was he from Brampton?

Mr. T. P. Reid: I take it you can't really tell that there has been--

Mr. Shuve: There has been no inflow of business, certainly in no significant amount.

If I might just make a couple of points, we are facing these problems with business going out of our shops. I want to make it very clear that we are fully equipped, we have competent staff, we can administer all of the business we have on the books and, as soon as we can get this problem resolved, I think we will get back to our mode of carrying on that business and adding new business.

The one thing that is absolutely essential in restoring confidence in Crown Trust Co., not only in the staff but in the business community generally, is a removal of the restrictions on the withdrawal of funds from deposit accounts and GICs. That is an absolutely essential ingredient in getting back to business.

1:50 p.m.

Mr. T. P. Reid: That could have been solved, as has been pointed out ad nauseam, simply by the Ontario government saying it will guarantee every depositor.

Hon. Mr. Elgie: Subject to what I have said many times before.

Mr. Shuve: Before that statement becomes effective, wherever the statement is made, the money has to be put up front to put us in a position to do that.

Mr. T. P. Reid: Yes, but the government can do that as well as parcelling it out, so to speak.

Hon. Mr. Elgie: The arrangements are in place. Let's just get going.

1:50 p.m.

Mr. Chairman: Thank you. The clerk is delivering to the members of the committee photocopies of a memorandum, dated January 26, 1983, to W. A. Macdonald from D. H. Fricker regarding Crown Trust, which is self-explanatory.

Mr. Renwick: Mr. Chairman, despite my urge to be lengthy, I am going to be brief. I am not asking Mr. Shuve questions in this statement; I am not asking him to respond to it. I will let him know when I am going to ask him a question, but I want Mr. Shuve to know where I am coming from. I tried to express it rather poorly in the House last night.

I find it personally offensive to me that the government will contemplate the disappearance of a company such as Crown Trust--and I could say that about a number of provincial financial institutions where they have this problem and I had the same feeling years ago about British Mortgage and Trust. I find it personally offensive to me that the government, in fact, contemplates the disappearance of Crown Trust by this legislation.

I share all of the intensity of feeling, from a different perspective, that you express in this letter. I particularly would share with my colleagues in the caucus the fate of the employees of Greymac Trust, Seaway Trust and of Crown Trust. I know of the competence, personally, of Crown Trust in the estate, trust and agency field, so that is not any question of mine.

There is a great deal of contradiction--this will come out next week and I don't intend to labour it now--about what is talked about over the continuing operation of Crown Trust. We have got, on the one hand, the clear indication that after Crown Trust is denuded of its major assets, what is left of it will drift off into the world with the shareholders there and whatever is left in it, whatever liabilities, and presumably that will be called Crown something--I don't know whether "Trust" will still be in the name. That is one part.

On the other hand, we have the minister talking about a transfer of the business in the sense of the undertaking, property and assets of Crown Trust to some new owners, contemplating somehow or other that Crown Trust is going to continue in business. Normally, that doesn't happen; it didn't happen in the British Mortgage case when Victoria and Grey took over the undertaking, property and assets, or what was left of it, of British Mortgage. They arranged things rather more smoothly in those days. That arrangement was made between ex-Premier Leslie Frost and John Robarts over a cup of tea one afternoon in the Premier's chambers. They do things differently now.

I was upset and I don't want anybody to be under any illusion about my concern that Crown Trust is going to disappear. I guess at the depth of my feeling about the responsibility of the government is that concern, and that is why I have not been able to understand from day one why the government of Ontario allowed

there to be a single moment's concern in the mind of a depositor, a holder of a guaranteed investment certificate or a person who was relying upon the fiduciary obligations of Crown Trust. The government has persisted in allowing the sense of instability to surround Crown Trust and its business in a way which is very offensive to me.

Whatever the government were to decide to do as to the ultimate disposition or solution of the problem seems to me to be totally divorced from the obligation of the government of Ontario to have given that assurance immediately. I may say that I have expressed this to the minister with respect to the estate, trust and agency business of Crown Trust. I wrote a note to the minister in the House asking him if he would give assurance that, so far as the fiduciary business of Crown Trust was concerned, the government would guarantee the integrity of the assets represented by that branch of the business and would give assurance to all persons standing in a fiduciary relationship with the company that all those obligations would be carried out.

Instead of getting the assurance, it is up front in the statement which the minister made on Tuesday of this week that not only are the depositors and the holders of guaranteed investment certificates in jeopardy, but also somehow or other those persons in a fiduciary relationship with the company are in danger. It was right up front in the statement of the minister on Tuesday of this week.

He said: "As I have emphasized on a number of occasions, we have a process under way that is capable of ensuring that all deposits will be paid as they mature. If, however, because of excessive public reaction to information, those clients of Crown who have assets being administered in estates, trusts or agency basis withdraw these assets to any significant degree, then an important element of value in the company may be substantially reduced."

The statement speaks for itself. There seems to be a block with the minister. He is precipitating the very thing which Mr. Shuve is trying to guard against. So far as the estate, trust and agency business of this company is concerned, this company, the word "trust," the nature of the business, the definition of a trust company, the definition of a trust company doesn't talk anywhere about it being a financial intermediary. It talks about the trust obligation. I cannot understand why, at least, the government would not say that the integrity of the fiduciary relationships are going to be guaranteed by the province of Ontario.

As I stated last night, and I know I feel deeply about it and I don't want that to cloud my judgement on the issue by any means, I think the government is in serious default not to permit this with respect to a single person having a fiduciary relationship with Crown Trust or any other trust company--this doesn't come up with Greymac or Seaway because they don't have any estate, agency and trust accounts. Crown Trust business has been predominantly in that field. I simply believe that the

government's position is just unbelievable to me in that aspect. I happen also to believe it is equally true with respect to its obligations to depositors and investors.

Hon. Mr. Elgie: I have to comment on that.

Mr. Renwick: That was the statement. I merely am question-begging the statement.

Hon. Mr. Elgie: What I have said very clearly and unequivocally is that the government's position is that Crown Trust's assets and Crown Trust's business are a viable entity, which is for sale at this time because of the existence of those things. I have made no comment that they weren't saleable.

Mr. Renwick: How do you cancel it out and handle it?

Hon. Mr. Elgie: I am saying that what we have before us is the option of continuing the business of that company and preserving the depositors. The two are intimately intermingled because, without all of those things, the massive amounts of money required from the Canada Deposit Insurance Corp. are not available.

Mr. Macdonald: Mr. Chairman, I would just like to add one thing. It's not my position to take a view one way or the other on the difference of philosophy that Mr. Renwick expresses about government's guaranteeing everything--

Mr. Renwick: I didn't say "everything." I don't want that to be used.

Mr. Macdonald: I'm sorry, guaranteeing more things than the present government up to this point has been prepared to say that it would guarantee. I would express a different view at the practical level, that is, that in my judgement simply guaranteeing the so-called safety and security of the trust assets is probably not at the heart of whether people want to continue that kind of business with Crown Trust.

2 p.m.

Again, it's a matter of judgement. I would guess that most people would not wish over time to entrust the kinds of things they do to a trust company like Crown if it was going to be in an extended period of government operation and if people didn't know reasonably promptly who they were really dealing with--for a lot of reasons.

One of the reasons is that people would be concerned about the ability of that kind of an operation to retain the quality of staff who had a sense of a future. There are a lot of factors, but I don't think that this committee should go away with the view that simply a statement of government guarantee of the integrity of fiduciary assets would be responsive to the retention of the fiduciary business.

Mr. Renwick: We can pursue that part of the discussion later. I wanted Mr. Shuve to know where I came from when I asked

these questions. Perhaps Mr. Shuve is not able to answer them.

As I understand it, all the federal House of Commons and the federal Senate have to do is to change one digit in the Canada Deposit Insurance Corp. statute from a two to a six, so it goes up to \$60,000. That's my understanding of reading the statute.

Has the minister or the government been in touch with the Minister of Finance, with the leader of the Conservative Party, with the leader of the New Democratic Party, with anyone in the government of Canada to indicate to the government of Canada the urgency of getting the \$20,000 raised to \$60,000?

I cannot believe that unless real pressure is brought to bear, and I'm not talking about pressure or forcing anybody, just to indicate clearly that we have the depositors of these three companies and every other depositor in Ontario in a trust company still sitting with a \$20,000 limit on the withdrawals.

Mr. Chairman: Mr. Renwick, may I point out we're continuing to have Mr. Shuve say what he wishes. Put the question. We are getting a long way away.

Mr. Renwick: All right. Mr. Shuve, I think, confirmed that he is limited to \$20,000 at this time.

Mr. Shuve: Yes, that's correct.

Mr. Renwick: My question, therefore, is to the minister. Will he pick up the phone and talk to Mr. Clark and to Mr. Broadbent and to Mr. Lalonde and to the leader of the Senate and to the Prime Minister and say to them, "Will you please expedite the passage of the amending bill to change the two to six in the Canada Deposit Insurance Corp. account?" Surely that would relieve another range of concern within the businesses of these companies.

Hon. Mr. Elgie: On Sunday evening, prior to my statement in the House on January 17, I believe it was, I phoned Mr. Cosgrove and I believe that the registrar or someone in the ministry had been speaking to the superintendent of insurance about our view of the importance of increasing the level of deposit insurance. I phoned Mr. Cosgrove on that Sunday evening to reinforce my own view and to ask if he would consider moves that might enable an assurance to the people who have deposits in these trust companies to be brought forward as quickly as possible.

I did not get any assurance about the date or time when it would be done. He indicated he was looking at it. Then on Monday, the day after, I received a message from him while I was standing in the House indicating that he had simultaneously announced in the House that they were doing that and that it was effective as of today. I have absolutely no problem--

Mr. Breithaupt: As of that day.

Hon. Mr. Elgie: As of that day.

Mr. Renwick: If the bill isn't passed, he can't do it.

Hon. Mr. Elgie: As of that date it will be effective.

Mr. Renwick: They can't do it.

Hon. Mr. Elgie: They're doing it with legislation. I have no problem passing on my concerns and the committee's concerns to the appropriate parties.

Mr. Renwick: Not the concerns. I am asking you to ask the Premier of this province to speak to the Prime Minister of Canada, to the leader of the Conservative Party and to the leader of the New Democratic Party and simply say to them that the people of Ontario who have deposits in trust companies are in a state of concern, if that is the appropriate word, and will they please expedite the passage of that bill.

I cannot conceive of anyone in any of the parties standing up to object to it. I do not think that anyone will be asking that it be reduced to zero. I think it is very important, because there must be a trough of people whose total investment in trust companies in terms of cash or GICs or estates would immediately be totally reassured. It seems so simple to me. I think even in our Legislature we would be able to change a digit fairly promptly--

Hon. Mr. Elgie: To the Ontario Share and Deposit Insurance Corp. legislation?

Mr. Renwick: Yes, without even--

Hon. Mr. Elgie: Right away. Are we prepared to do that--to the OSDIC legislation, on credit unions?

Interjection: Sure.

Hon. Mr. Elgie: Right away.

Mr. Renwick: Which legislation?

Hon. Mr. Elgie: You can do that without problems?

Mr. Renwick: My leader--

Interjection: Without problems.

Hon. Mr. Elgie: Okay, I'll get that ready then.

Interjection: Just after this legislation.

Hon. Mr. Elgie: Yes, just after this legislation.

I have no problem passing on those views to the Premier and I do not see any objections to the principles you outline, none at all.

Mr. Renwick: I think it is absolutely essential.

My last comment to the question to Mr. Shuve is will he be good enough to assure the staff of Crown Trust of the deep and continuing interest of all members of this committee about their employment and their jobs? Now that may sound platitudinous but I do want them not to be under any misunderstanding, that we share a very deep concern about their ongoing employment in the trust business, in the world in which they have lived, and, if there are severances, in the terms and conditions of the severances of their employment.

Those are things which I think each party shares deeply.

Hon. Mr. Elgie: It is important that you said that. That was the message given to the staff (inaudible) by Mr. Thompson. I think it is important they hear that message from the committee and it is on behalf of both the opposition parties, is that correct?

Mr. Shuve: It will be my pleasure to pass that on to them.

Mr. Conway: Just very quickly, Mr. Shuve, a couple of questions. I would like you to review for me quickly, if you can, a little bit of the history of Crown Trust. We know it is 88 years of age. You worked there for many years, I take it. I remember this trust company as an emanation of Bud MacDougald and the Argus Corp.

Mr. Shuve: That was one phase through its 88-year history.

Mr. Conway: Was it a substantial experience with you?

Mr. Shuve: Yes.

Mr. Conway: You were at Crown for how long?

Mr. Shuve: Twenty-two years.

Mr. Conway: I take it then that the Argus ownership was the longest period of ownership?

Mr. Shuve: I just want to clarify the point that there was never any Argus ownership of Crown Trust Co. Mr. MacDougald, as an individual and through family relations, had a very substantial interest in the company. There has never been an Argus involvement in the company.

Mr. Conway: But am I right in that MacDougald's control was an effective control?

Mr. Shuve: I think it is fair to say it was an effective control, yes.

Mr. Conway: Then the effective control then passed to where?

Mr. Shuve: The control from the MacDougald et al interests passed to Conrad Black and his brother and his associates.

Mr. Conway: It went then from Black to Canwest?

Mr. Shuve: In mid-1979 from the Black interests and the Canadian Imperial Bank of Commerce to the Canwest group.

Mr. Conway: Then in October 1982 to Greymac Credit?

Mr. Shuve: Exactly.

Mr. Conway: I take it that when you resigned, or when you left the scene in January 1980, you had had a long experience with this particular trust company. It was the Canwest group that was in control when you departed the scene.

Mr. Shuve: Yes.

2:10 p.m.

Mr. Conway: You returned on or about January 7 in the heat of a battle, so to speak. You made an eloquent speech here today, or an eloquent series of references to the world of your return. Many of these people I presume were people you knew and had worked with. Am I correct?

Mr. Shuve: Particularly at the more junior level, the people I have known for 20 to 30 years.

Mr. Conway: To those of us looking on one gets the impression that this rather stately old conservative trust company was boarded by pirates some time in the recent past. I sat and listened to Mr. Biddell the other day and, quite frankly, the more I heard the more incredulous I felt, knowing relatively little about the trust industry, other than it was a trust business, with emphasis on the word "trust."

The reason for this is to ask you what kind of morale you found on your return. Is it pretty bad?

Mr. Shuve: Well, I walked in after Murray Thompson took possession of the company and the staff were certainly in a state of shock, particularly those long-time employees who really had no inkling that anything of this nature could ever happen to that fine old company.

If I could just continue, during those initial days the people were in a state of shock. Certainly the morale is not of the highest, but I think in the light of the current circumstances the morale of the staff has held up very well.

Mr. Conway: My next question is, what I have heard from just a relatively personal and not particularly comprehensive series of discussions with people who know the industry far better

than I, I am told that Crown over the years has had a very good staff, one of the very best, and you would probably agree with that.

Mr. Shuve: I would agree with it, and Crown still has a very capable staff.

Mr. Conway: Am I right in thinking that when the new ownership, the Rosenberg group, took over in the fall of 1982 they moved quickly to put some of their people in senior management functions?

Mr. Shuve: There was some move in that direction.

Mr. Conway: I understand, again from the basis of a conversation some of my colleagues and I had with Mr. Jack Biddell, that in fact there was quite a building tension at Crown Trust in the last weeks and the last few months of 1982, to the point that these very well qualified and very committed Crown employees were not prepared to put through, on the orders of their superiors, some rather questionable loans. Did you hear anything about that?

Mr. Shuve: I have heard that, yes. I have no in-depth knowledge of these things.

Mr. Conway: I would not expect you to, but you have heard that?

Mr. Shuve: Yes, I have.

Mr. Conway: That very quickly after the takeover there were some rather exceptional loans being requested, some of which I gather were put through, but some of which--and again, you have to appreciate looking at it from my vantage point, now rather exceptional that appears. New ownership, new management, and staff, many of whom have been there a long time saying "No" to some of these requests.

You see, the next question that follows is surely some of these people picked up the phone and called Murray Thompson and said, "Listen, we are very concerned about what is happening to our beloved Crown Trust Co." Now that is just something that we will have to talk about later, but I wanted to get you on record as having at least some knowledge that some of this had transpired.

Hon. Mr. Elgie: I don't think he heard that.

Mr. Shuve: Yes, I heard that.

Mr. Conway: Mr. Biddell was very forthcoming on some of this.

Again, looking on as we are now, as legislators on behalf of the public at large, to the spectacle of this grand old trust company being, in the space of about 95 days, rather altered in its outlook and its operation, it is something that gives some of us pause--

Mr. T. P. Reid: From hoop skirts to miniskirts.

Mr. Conway: I wanted to go through that and I appreciate very much, Mr. Shuve, your help.

I want also to come back to something else. I have just one or two other quick points, Mr. Chairman, and this is the second to last. The letter that stands in your name, dated January 27, as has been commented, is pretty straightforward and the memorandum from Mr. Macdonald's partner, Fricker, certainly seems to give some background on how it developed. Mr. Biddell told us on Tuesday that he very much wanted this legislation, or its equivalent, the day the House opened, January 17. Do I take it that you had specifically drawn to Mr. Biddell's attention in the very early days of your return that something of this exact kind was going to be required to put to rest the worries that were besetting your Crown Trust Co.?

Mr. Shuve: Exactly. From January 10, which was the first business day after I became involved, I certainly put it forward and we discussed at every meeting of the advisory committee the urgency and necessity to get this thing back on the track.

Mr. Conway: I paraphrased, I believe with some real accuracy, something I think you said earlier, Mr. Shuve, that you felt "some action" was necessary to normalize the operations of the Crown Trust Co. One of the problems this committee is going to have to adjudicate is whether Bill 215 is really the only alternative we have. It is something we are going to have to struggle with in the next couple of days.

I am left with this impression, however, that you came back on January 7 to find this company, with which you have had a long association, in real trouble, with a lot of concern among the staff, who are expected to carry forward some real loss of important business. You immediately go to people like Jack Biddell and say, "We've got to get something, we've got to get it fast." We then hear from Biddell that he was counselling that the day the Legislature came back we ought to have something and ought to have this kind of legislation.

Of course, here we are, 12 or 14 days after that fact, looking at the particular bill. So it is just that chronology on which I wanted to comment.

Hon. Mr. Elgie: I could comment on that. When Mr. Shuve took over the role of acting chief executive officer there, as you know, Woods Gordon moved in at the same time. I do not think anyone is suggesting that the government should have proposed anything in the absence of having received that interim report over the weekend of January 15 and 16.

Once that report was received, discussions and negotiations then commenced with the Canada Deposit Insurance Corp. about what options were available in the light of the report that was filed with us. When the option that was selected was approved, it was brought to the Legislature; there was absolutely no delay.

Mr. Macdonald, do you want to comment?

Mr. Macdonald: I think it might be useful to take the sequence of events in which I was involved and with which I am familiar. I am not familiar with anything to do with discussions with possible purchasers, but I am familiar with the events that led up to the inclusion in the statement of the minister of the arrangements under which he was able to envisage the complete protection of all depositors and the continuance of the business operations of Crown.

What happened was this, in an anecdotal way: Mr. Jack Biddell woke up at 4 a.m. on Saturday, January 15; because, in a way that I have found characteristic of Mr. Biddell, when he gets involved in difficult matters of this kind he does not sleep well until he thinks he has found the way to deal with the problem.

He woke up, apparently tried to reach me by telephone, and I am glad he didn't, but finally I heard the doorbell ringing at 7:30 and he had come from halfway across the city. He came in and said, "Bill, we've got to get the Canada Deposit Insurance Corp. to lift the constraints on this business, and I think that when we show them what I have now analysed, based on the interim report" if I can put it that way, "not yet signed by Woods Gordon, I think we have to persuade the CDIC to lift the restrictions on the \$20,000, and that we can convince them that they will lose less if they do this."

2:20 p.m.

He explained it to me, and we then called Jim Tory about 8:15 or 8:20 that morning, acting on behalf of the CDIC. We got the minister down, and then Jim Tory initiated discussions that went on by telephone and in person among the CDIC board members in several cities, by conference call. It is obvious that when you are dealing with hundreds of millions of dollars of public moneys, despite what Mr. Rae said about being amazed that we did not have a firm legal document by the time the minister made his statement, the reality is that there has been a close working partnership with the CDIC.

In my perception, both the Ontario government and the CIDC have a common goal, which is the protection of the depositors and the saving of the business, if that could be done--dealing at this moment with Crown only. We trust each other, and they basically said: "We hear what Mr. Biddell is telling us, and we believe that can be sold to our board; but if, the moment we release our restrictions we could be in there forever--we don't know, once we have come up with the \$200 million or whatever it is. We have no right, under our legislation, to do that kind of thing."

As I stressed earlier, they said: "We must have confidence that there is a real buyer; he does not have to be signed up, but we must have confidence in that and that the secure legal route to getting the assets and undertaking to the buyer is in existence, and in our judgement"--and their lawyers had been working for 10

days on behalf of CDIC and I do not know at what point they involved lawyers from my firm; but at some point in the process they started to raise concerns with lawyers in our firm.

So they had been working for a long time, and their lawyers told them that they could not possibly risk this money without having a secure legislative route. I suppose you might say, anticipating to some degree, that it would not be the most popular legislation this government had introduced into this Legislature. We certainly looked hard to see whether that was the only alternative.

Mr. Breithaupt: It was certainly the most surprising legislation.

Mr. Macdonald: So the real background of the arrangements arises from the assessment that Mr. Biddell made--frankly, I think, at the earliest moment it could have been made--that here is a company that, while its borrowing base has been eroded and while there are a restricted number of so-called soft or questionable assets in terms of how they relate to the book values in the company, that basic business is sound and can be saved in the manner discussed.

Mr. Conway: Thank you very much. Finally, to Mr. Shuve: I am quite struck by the tone of your letter, particularly the way it ends, where you talk about the threatened viability of this 88-year-old institution. I certainly get the sense that you come here today to plead a case for the saving of the Crown Trust Co.

Surely, however, you will want to agree with me that Bill 215, if it should pass, does not do that. It would be wrong to leave the impression with the staff of the Crown Trust Co. that Bill 215 saves that institution, because what it obviously does, or purports to do, is to sever that body in such a way as to isolate the haemorrhaging section, the so-called soft assets, and throw them on to the high seas of poetic justice and the marketplace and God knows whatever else, and to take the remaining part of this old body, the very valuable part of it, the trust accounts essentially.

Mr. Macdonald: What would they have done without that body?

Mr. Conway: Perhaps another day, Monday.

Mr. Macdonald: --you will find another line of work.

Mr. Conway: Given the circumstances of its being made aware to us, you will appreciate our very keen interest in it.

The valuable part, the hard assets, the trust business, will be sold off. It is probably all set to be sold off this very day. I am sure it has been sold off, as a matter of fact, into Victoria and Grey Trust, or wherever else.

In that respect, the old company is being closed. In a couple of months people are not going to know the Crown Trust Co.

They will know perhaps that the good part of it has been folded into Victoria and Grey, or one of the other three or four major financial institutions which have been invited to tender.

Would you agree with my contention that Bill 215, as you read it, is not a piece of legislation that is going to save the Crown Trust Co., as the people with whom you have worked there have known that company?

Mr. Shuve: No, I am not going to agree with you on that.

Mr. Conway: All right. Would you elaborate on the nature of your disagreement?

Mr. Shuve: Yesterday, Mr. Biddell explained very clearly to the senior staff, and we communicated that to other staff, exactly what may transpire; that what is now Crown Trust Co. could become a part of some other institution, depending on what happens with all of these people who have expressed interest.

Mr. Conway: If you were there--and I assume you were there--

Mr. Shuve: Indeed I was.

Mr. Conway: --surely Mr. Biddell told these people who you have the obligation to work with and supervise, that at that very hour, the hour of his speaking to them, there had been invited, and were received and well-analysed, four or five tenders, one of which was probably singled out for acceptance for the purchase of much of these assets.

Mr. Shuve: Not to the extent that you express, because Mr. Biddell did not indicate that the new purchaser had been totally identified. He did explain in very clear terms what would take place.

The reason I disagree with you is that the trust operation at Crown Trust Co. is a group of people providing a service to a broad number of individuals, corporations, or what have you, as trustee, agent or whatever. Despite the fact that the name may change, that group of people will still be in place in some organization to continue to provide that service.

That is why I disagree with you, that the fact that it is taken over by some other institution eliminates the--

Mr. Conway: My only point in raising the issue with you is just to set the record straight about what Bill 215 is very likely to do to the Crown Trust Co., because clearly it is not going to continue in the public domain as it has over 10, these many years, a company for which many of these people have soldiered long and well in ways you have described.

Mr. Macdonald: Mr. Chairman, just to add to what Mr. Shuve said, there is a process, which I understand material made available to the committee over the weekend will elucidate in full detail, in which Mr. Richardson, on behalf of Woods Gordon on

behalf of the minister, and Mr. Humphrys, on behalf of CDIC, may themselves come, or may have already come, to a joint recommendation of a purchaser--to the CDIC board on the part of Mr. Humphrys, and to the government of Ontario on the part of Mr. Richardson.

There are two things to be added. First, we do not know who the purchaser is and whether the purchaser will be somebody who wishes to be separately identified as Crown Trust or not. We do not know that.

2:30 p.m.

Mr. Conway: Can I stop you right there? This is a very important point. Do you mean to say, Mr. Macdonald and Mr. Minister, that if at this very instant this committee, by virtue of whatever reason, gave full passage to this legislation that you have requested--

Hon. Mr. Elgie: Done.

Mr. Conway: Right. Do you mean to tell me that you would not proceed back to your office to consummate the deal, to stop the haemorrhaging about which we have heard so much?

Mr. Macdonald: Let us come back to that. I will respond to that. I think it is important for you to at least understand the process first, and then you can have your observations about the substance.

The process is that there will be a recommendation to the minister and to the Canada Deposit Insurance Corp. board. That will be a recommendation. That recommendation may or may not be accepted. Until the legislation is accepted by the cabinet--that is the Lieutenant Governor in Council--and by the board, there is no arrangement. You are asking if we would not sign up a deal tomorrow morning assuming a purchaser is identified and assuming that the recommendation is accepted by both the cabinet and the minister.

Hon. Mr. Elgie: And the bill passed today.

Mr. Macdonald: And the bill passed today. What we would expect to happen before there was a sign-up, as long as CDIC was confident there was a real buyer, would be that CDIC would follow through on the discussions that we initiated with them 10 days ago and lift the restrictions on the normal business operations of Crown Trust Co. That would then be followed by the detailed working out of whatever legal arrangements were necessary.

I think it would be helpful to understand that there is a step-by-step process that has attempted to be more orderly than it may have been described as being in the press, and a good deal less of a "fire sale" than what was described in the press. One of the advantages that has not been identified by anyone, about the concept of taking the part of Crown Trust that was not eroded in the last two or three months--which blessedly is most of Crown

Trust--and dealing with that separately, is that the argument over values is minimized and the likelihood that the full value is obtained for that part--

Hon. Mr. Elgie: (Inaudible).

Mr. Macdonald: You are not interrupting me, are you, Mr. Minister?

Hon. Mr. Elgie: Yes.

Mr. Macdonald: --that the full value be obtained and that the assets about which there is a question can be laid aside and worked out for the remaining stakeholders. The biggest remaining stakeholder will be the CDIC.

Mr. Conway: My principal point in raising the issue in the presence of Mr. Shuve, who has made a very eloquent plea on behalf of the people that he represents and works with at the old Crown Trust Co., is that it is my humble submission--taking you people at your word. God knows, we have heard it; I have heard it in such agitated tones that I have no choice but to believe it, particularly from Mr. Biddell--that 72 hours after this bill receives royal assent, if not sooner, the Crown Trust Co., as Mr. Shuve and hundreds and thousands of people in this province and this country have known it, will die.

Mr. Macdonald: I cannot believe that. I have spent many, many hours--

Mr. Conway: I said it was my impression. I--

Mr. Macdonald: I just want to say that I have spent enough time with Mr. Biddell in the last three weeks to wonder what he could have said that would have created that impression.

Mr. Conway: I will tell you. Let me be very quick and to the point. I am assuming that the moment this bill gets passage--I may be wrong, but I cannot believe that I am. You people have got your bids in and you have set a fairly elaborate system for entertaining those bids. You have got a system in place for evaluating. I assume you are well advanced on that process. I assume, perhaps wrongly, perhaps cynically, that you have got your list of your number one and your fall-back candidate, and the moment this bill is passed, for the very reasons you have all given about the need to end the uncertainty, to satisfy the Canada Deposit Insurance Corp. and everyone else that this is a viable concern that will carry on--I won't embarrass anybody with naming any of the five on the list--

Hon. Mr. Elgie: You wouldn't embarrass anybody, not a soul.

Mr. Conway: All right. Then let's assume you've decided that Victoria and Grey Trust Co. is far and away the best option and that's where it's going to be. So you will then entertain an offer from Victoria and Grey to purchase that large component of

the old Crown Trust Co. Once that deal is consummated, the papers of this province will read "Victoria and Grey Trust Co. takes over the trust business of the Crown Trust Company."

My friend from Kitchener (Mr. Breithaupt) raises the question of how many of the employees go along with the deal.

Mr. T. P. Reid: What's their security in all this?

Mr. Conway: I won't go into the experience we had in previous situations with that kind of a takeover. That's all I'm saying to you, Mr. Minister, and to you, Mr. Macdonald. Maybe that's not going to be seen to be the end of the old Crown Trust Co. If you're a consumer in Brantford who has been accustomed to going in, I suspect you'll see it that way. Maybe I'm wrong. I don't mean to be unsettling or to be destabilizing, but quite frankly, that's what I expect to have happen. I am prepared to bet my friend the minister a fine bottle of whiskey on the point to indicate that--

Hon. Mr. Elgie: Is that on the record?

Mr. Conway: I hope it is.

Hon. Mr. Elgie: Who chooses the whiskey?

Interjection: That's like betting a package of cigarettes or buying a round.

Hon. Mr. Elgie: Let me assure you that the moment the bill is passed, there will be expeditious action. The nature of it will be revealed as it unfolds.

Mr. Conway: Fine, I have indicated what I expect the action to be. All I'm saying to Mr. Shuve is that if that action does not take place along the broad outlines I have described, I will be very surprised. The point I am trying to make is that we ought not to leave an impression on the community. I say on the basis of my information and my interpretation of that information, that the old Crown Trust Co. is not going to remain as it has in the past. Clearly Bill 215 is not going to permit that.

I conclude by simply drawing the analogy of my friend the member for Carleton East (Mr. MacQuarrie), who for many years carried on a very successful business of politics under the Liberal banner, but late in the day he--

Mr. MacQuarrie: Saw the light.

Hon. Mr. Elgie: What's this, politics coming into this discussion? Good God. Is this committee deteriorating to that point?

Interjection: Never.

Mr. Conway: Wait. The analogy is important. Late in the day that same gentleman, doing a very active political business, changes banners and he comes here as a Progressive Conservative.

To suggest that there is not some public importance about the switch in banners, I think, is to misstate case.

Hon. Mr. Elgie: From that very example, we show a good choice in change. That's what Crown Trust's sale will be all about.

Mr. Cunningham: I just have one very brief question.

Hon. Mr. Elgie: Oh, come on.

Mr. Chairman: In fairness, Mr. Minister, Mr. Swart has also been awaiting patiently.

Mr. Cunningham: I just have one brief question.

Mr. Swart: If the minister doesn't pass right out, I just have a request to make of him. It's not a question.

Interjection: His resignation?

Hon. Mr. Elgie: That's a dream.

Mr. Cunningham: I would like to ask Mr. Shuve if he could elaborate on the involvement of Lyon Wexler in the Crown Trust Corp. Was Mr. Wexler actively involved in the operation of Crown as you know it now?

Mr. Shuve: Mr. Lyon Wexler is in no way involved in the affairs of Crown at this moment.

Mr. Cunningham: Not at all, okay. Was he?

Mr. Shuve: I don't know the answer to that question. He was involved with Greymac Trust Co. I am not aware of whether he had an involvement with Crown during that 95-day period.

Mr. Swart: I just want to make a request to the minister. I think he and the committee will agree. There has been considerable concern expressed about real value of these properties and how you arrive at the real value, etc. I would ask the minister if he could get the market value assessments of those properties from the Ministry of Revenue and supply them to this committee.

I know that the assessed value of these properties doesn't relate to the market value at this day, but I'm sure the minister knows that a market value evaluation has been done throughout this province and has been kept up to date. It has been done independently, and I think it's as good a gauge as we can get of the real values of these properties.

Mr. Macdonald: Do you mean under the Assessment Act? Is that what you're talking about?

Mr. Swart: Under the Assessment Act. I am wondering if the minister--

Hon. Mr. Elgie: I don't know if we can get that.

Mr. Swart: --would have that for us on Monday if there is some real question of the valuation of these properties.

Hon. Mr. Elgie: I can't give you the assurance at three o'clock on Friday afternoon that I'll have it here Monday morning. I will make inquiries, but I really can't give you that assurance.

Mr Swart: Will you endeavour to get that?

Hon. Mr. Elgie: I will endeavour to contact the minister to see if that's a possibility. That's all I will do.

Mr. Breithaupt: Can you inquire as to whether the INS-33 forms that are part of the financial statements would be available too?

Hon. Mr. Elgie: INS-33 forms?

Mr. Conway: Obviously you were not a member of the select committee on company law last year.

Hon. Mr. Elgie: I have no idea whether that information can be released or not, but I'll see what I can do.

Mr. Chairman: Thank you, gentlemen. Is that it? We will adjourn now to reconvene Monday following routine proceedings.

The committee adjourned at 2:42 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
CROWN TRUST COMPANY ACT
MONDAY, JANUARY 31, 1983
Afternoon sitting

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Johnson, J. M. (Wellington-Dufferin-Peel PC) for Mr. Eves
Lane, J. G. (Algoma-Manitoulin PC) for Mr. Watson

Also taking part:

Conway, S. G. (Renfrew North L)
Cunningham, E. G. (Wentworth North L)
Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
Peterson, D. R. (London Centre L)
Rae, R. K. (York South NDP)
Reid, T. P. (Rainy River L-Lab.)

Clerk: Arnott, D.

Assisting the committee:

Revell, D. L., Legislative Counsel

From the Ministry of Consumer and Commercial Relations:

Biddell, J., Adviser
Macdonald, W. A., Adviser

Witnesses:

On behalf of preferred shareholders:

Finley, J. R.; Smith, Lyons, Torrance, Stevenson and Mayer
King, C. W.; Hughes, King and Co. Ltd.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 31, 1983

The committee met at 3:27 p.m. in room 151.

CROWN TRUST COMPANY ACT

Consideration of Bill 215, An Act respecting Crown Trust Company.

Mr. Chairman: Gentlemen, at 2:30 this afternoon, I received one letter from Fasken and Calvin, the solicitors for Seaway Trust Co., and the clerk received--I don't know at what time--a letter from Hughes, King and Co. Ltd. Mr. King is the consultant for the preferred shareholders of Crown Trust Co. Without knowing, I would half assume that some of these people or their representatives may be in the room.

Taking the King matter first--I think photocopies have been distributed now--Mr. King assumes that we will be meeting at 3:30 today and "would kindly ask that we be heard at such a meeting" He is waiting to hear back from the clerk at his earliest convenience. The clerk cannot telephone him back until he knows what the committee wishes.

Second, we have the Fasken and Calvin letter on behalf of Seaway Trust, requesting that Mr. Markle, the present chairman of the board of Seaway Trust, appear before us and make himself available to the committee. Again, there is a reference to 3:30 this afternoon, so I assume he assumes it would be this afternoon.

May I hear from the committee?

Mr. Swart: Mr. Chairman, I think we should deal with these two separately, as I think you have indicated. I would like to deal with Mr. King's request first.

Mr. Chairman: Mr. Swart moves that Mr. King, and/or Mr. J. R. Finley, QC, who I understand is the lawyer representing the firm, be heard at an appropriate time this afternoon.

Mr. Swart: Mr. Chairman, if I could just speak to that very briefly, this committee is charged with the responsibility of not only amending the bill we have before us, but with the responsibility of whether we are going to report it or not. It seems to me that in this precedent-setting matter, we should hear from the shareholders of this company for which we are taking such an unprecedented step. Therefore, I am pleased to put that motion.

I don't want to interfere immediately if there is some questioning that should continue with Mr. Macdonald or Mr. Biddell or any of the other people we have here, to bring out further information, but I think it important that we hear the side of the shareholders. It is exceedingly important. I know some of them are in the audience and I would suggest that we hear them this

afternoon at some point. My motion does not designate that point, except to say this afternoon.

Mr. Breithaupt: Mr. Chairman, in the remarks I have made both in the House and in the committee concerning the matter of the preferred shareholders, we have been most interested in ensuring that the preferred shareholders receive the same protection as has been given to the tenants who are involved in many of these projects, and the depositors, of whom we are all aware.

The amendments I am proposing on behalf of the opposition, will deal particularly in section 3 on the matters which affect preferred shareholders. I am quite pleased to have Mr. C. W. King appear before the committee. I would think that we would be well served to have him place his statement on the record and be available to answer some questions.

I suppose part of it depends upon the length of time we expect to be here and the amendments which are otherwise before us. You will know, Mr. Chairman, that we have placed 12 amendments before the committee and the minister has placed two. I don't know whether there will be amendments from the third party or not in due course.

Mr. Swart: We are informed there well may be.

Mr. Breithaupt: So the end result is we have to have some time for that.

If we were able to hear Mr. King this afternoon--I think we do have time to do so if we agree to the amount of time that would take--we could then also decide whether it is the intention to have Mr. Andrew Markle, or counsel on his behalf, appear with respect to the investments and the valuations that appear to have been used by the three trust companies in the projects.

I recognize that while the bill is dealing peculiarly with Crown Trust Co., the pattern as to how these matters have been dealt with, developed and observed upon by the ministry, would no doubt be the same both for Seaway Trust Co. and Greymac Trust Co. However, that is an entirely separate matter and we can talk to that at the time.

At this point, if we could agree to hear from Mr. King and move on with that, since the preferred shareholders do have a substantial stake in this, we would no doubt learn something which would be of use to the committee and has no partisan context in any way. Perhaps we could deal with that matter first.

Mr. Brandt: Mr. Chairman, I also think we could agree to Mr. King's request, to bring forward his views and give another dimension to this whole problem. We feel it is essential and necessary for the information of the committee.

I would like to go on record as saying that I have some reservations about some comments that my colleague, Mr. Breithaupt, made, particularly with respect to the request of Mr.

Allan Rock. I feel there is a different situation and a different problem there.

Mr. Renwick: On a point of order, Mr. Chairman. My point of order is that we are dealing, as I understand it, with my colleague's motion with respect to Mr. King and with respect to Mr. King's counsel.

Mr. Brandt: Yes, I am going to speak specifically to that. I only wanted to say that in the preamble, there was some reference made to the other correspondence. I think my colleagues and I would agree with the proposal Mr. Swart has put on the floor, and we could go along with that.

If I could add one final comment in the spirit of the co-operation that we have here in this committee, I would ask that we attempt to keep an eye on the time factor. That is of the essence as well. That would be the only caveat that I would place before you.

Mr. Renwick: What is the time factor, Mr. Brandt?

Mr. Brandt: The time factor is in the light of the minister's comments earlier about the need to get on with Bill 215, and certain time constraints that he has made abundantly clear to all the members of the committee.

Mr. Renwick: You are not trying to limit the proceedings of the committee?

Mr. Brandt: I did not say that.

Mr. Renwick: No, I hope not.

Mr. Breithaupt: This is not the spirit in which the committee is operating.

Mr. Renwick: Correct.

Mr. Brandt: That is right. I thought we had that kind of co-operative spirit. Maybe I have been misguided in that respect, but that is what I understood was the case.

Mr. Chairman: The way I heard your motion, although I have not got it front of me, was "or Mr. King or Mr.--"

Mr. Swart: It is "and/or."

Mr. Chairman: I see.

Mr. Swart: I am not sure how they want to present this and that is why it was worded that way.

Mr. Brandt: Let us not complicate it and maybe we can get agreement on it.

Mr. Mitchell: I am sorry, I missed the last line.

Interjection: "...and/or his counsel."

Mr. Chairman: All those in favour of Mr. Swart's motion, please raise your hands. All those opposed likewise.

Mr. Piché, you cannot abstain.

Mr. Piché: No, I was voting in the affirmative.

Mr. Chairman: You have a short arm.

Motion agreed to.

Mr. Chairman: Is Mr. King or Mr. Finley in the room today? Yes. Please sit back where you are.

The next question is, when are they to be heard? We have several other things. Mr. Breithaupt earlier brought up the question of when the bill was going to be reported back to the House. There is also a statement of the minister to be dealt with.

May I have some direction on the letter of Fasken and Calvin regarding Seaway? I brought that up. May I have some direction? Mr. Renwick?

Mr. Renwick: Mr. Chairman, I am not concerned with whether you deal with my motion now or after we have heard from Mr. King and Mr. Finley, if that is the decision of the committee.

Mr. Chairman: Mr. Renwick moves that Mr. Allan M. Rock, counsel from Fasken and Calvin, the solicitors for Seaway Trust Co., come before the committee to explain to us the direct and continuing interest of Mr. Markle in the deliberations of this committee concerning the Crown Trust Co. Act, 1983, and the issues which it presents.

Does anyone wish to speak? Mr. Brandt?

Mr. Brandt: We have some difficulty with respect to that motion, primarily because it is my understanding, subject to clarification from the minister, that there is an application for a judicial review of the whole matter on the part of this particular firm. It is not directly involved with Bill 215 and the Crown Trust affair in quite the same intimate sense as the previous speaker, so I cannot go along with the resolution on the floor at present.

Mr. Breithaupt: I think the committee would benefit by having brought before it someone who is able to give us information on how these kinds of transactions were put together.

It would appear that the involvements of Seaway, Greymac and Crown, have all followed a certain pattern. There is a knowledge and background which the committee does not have.

In the question I put to the minister in the Legislature today, certain comments were referred to as to what representatives of the ministry may or may not have done with

respect to certain transactions. I think it is important that be clarified.

I feel that since Mr. Markle has sought to appear before us, directly or with counsel, we should accommodate that. It seems to me that we have a number of items of documentation to look at as well, so this afternoon could well be spent clearing up all of the odds and ends. Then we can get on to deal with the amendments, possibly beginning as early as eight o'clock this evening. On the other hand, there may be other documentation and other matters that are going to take an additional amount of time.

For my part, however, I would be quite prepared to complete these two presentations after we hear from the minister, because I believe he wants to say something first. If we heard from him first, then from Mr. King and his solicitor, we would then have, it is hoped, some time this afternoon for a presentation of some of the facts and background. It might be very helpful to us to see whether certain amendments are useful in this bill or not.

3:40 p.m.

I have no desire, nor does my party, to lengthen the proceedings. From the comments the minister and Mr. Shuve have made, it is important that we be very prudent about the time it takes to deal with this legislation. I am very mindful of that, and we can talk about whether we could sit on Wednesday morning or Saturday night or any of these other sorts of things.

The point is we want to get on with this task as appropriately as we can. We want to do a decent and, it is hoped, workmanlike job as we look at whether certain amendments might be useful or not. I hope it will be a fairly crisp exchange between the minister and his advisers and those of us who might be putting forward amendments.

In any event, I would think that the solicitors for Mr. Markle, and Mr. Markle himself, know that matters they may raise before this committee enter the public domain. They will have to be guided by the resultant publicity and anything else that may occur from their desire to provide or not provide information, as they may decide.

I would hope we could accommodate that. I would look forward, as our third item this afternoon or as soon as it is practical, to having Mr. Markle appear before the committee if he thinks he has something the committee could benefit from hearing.

Mr. Swart: Very briefly, I agree with my colleague's motion, which is supported by the member for Kitchener (Mr. Breithaupt).

I do think it is important to get as much information as we can about the transactions which led up to the situation we're in. I think maybe we should reserve the right to have Mr. Leonard Rosenberg before this committee as well, at some point, either on our initiative or his. I am not proposing this right now, but subject to what transpires, and what useful information we may be

able to get from someone like Mr. Markle, we may want to pursue that matter further.

It makes eminent sense, on such an unprecedented step in the history of Ontario and perhaps of any other province in this nation, that we get all the information we can possibly get from all sides.

Mr. Spensieri: I shall be very brief. This committee would probably not be convening at all were it not for the size of the large third mortgage in the Cadillac Fairview situation, where Seaway and other companies were participants. It seems to me that the transactions are so interwoven and so essentially interrelated that this committee could not, in fairness, do its work without the presence or the contribution of Mr. Markle, if he freely chooses to make it.

Also, given the fact that this legislation may serve as a precedent for a similar disposition of the assets of the other trust companies involved, I would like to hear, at the very earliest stage, Mr. Markle's comments about his company. For that reason, I would really strongly urge that we benefit from Mr. Markle's contribution.

Mr. Renwick: I specifically submitted the motion on the basis that Mr. Allan Rock, of Fasken and Calvin, the solicitors for Seaway, would come and explain to us what he thinks we understand; namely that Mr. Andrew F. Markle, the president and chairman and president of the board of directors of Seaway Trust, has "a direct and continuing interest in the deliberations of your committee concerning the Crown Trust Company Act, 1983, and the issues which it presents."

Some people may think that is nitpicking, but I think it is most important that we not deny to counsel for Seaway the opportunity to present to this committee the concerns which Mr. Markle may have. Then we can decide whether or not they are matters germane to the bill before us. It would be in the light of that presentation and that decision that we could then decide whether Mr. Markle should or should not appear. It's not because we wouldn't be interested in hearing Mr. Markle, but because we have to determine whether or not it is relevant and related to Bill 215.

I specifically prepared it in the light of the comments made by Mr. Brandt, who appeared to prejudge the issue right at the very beginning of the hearing this afternoon.

Mr. Chairman: Thank you. There being no further people wishing to discuss it, all those in favour of Mr. Renwick's motion please raise their hands. Five.

All those opposed, please raise your hands. Six.

Motion negatived.

Mr. Swart: Re-Moved again.

Mr. Chairman: We are left with the first motion. May we now go to the question that Mr. Breithaupt brought up before about trying to establish a time when this bill would be reported back to the House.

Mr. Breithaupt: That may not be practical. I just made the suggestion depending upon what we would do this afternoon. It would appear now that the majority of the committee does not wish to hear from people who are involved in this matter. If that's the case, who knows how long it may take?

I suggest that we move on and hear the minister, and then hear from Mr. King and carry on as best we can. I don't think it is practical to try to set a time framework at this point.

Mr. Chairman: Thank you. The minister has a statement and the clerk will be distributing copies of it at this time.

Mr. Conway: I would prefer not to have the minister begin until we have the statement.

Mr. Chairman: I would prefer that the minister starts at least one or two words out of it.

Mr. Conway: I just submit it to you, sir, as someone who has sat through these deliberations, that it would be more useful to some of us who have sat through these deliberations to have the document.

Mr. Chairman: However, in view of what can happen when they're distributed and then something goes awry and the minister never gets to give his statement, it also becomes--

Mr. Cunningham: The Globe and Mail have it already, no doubt.

Mr. Chairman: Mr. Minister, would you commence, please.

Hon. Mr. Elgie: Mr. Chairman, there are two preliminary matters on which I would like to make a statement before the committee proceeds.

First, I wish to confirm that the following has been delivered to the opposition parties and to the clerk since the adjournment of the standing committee on administration of justice's consideration of Bill 215 last Friday afternoon:

1. Woods Gordon interim report to registrar, dated January 15, 1983;

2. Woods Gordon letter to minister dated January 28, 1983, outlining procedure in obtaining submissions for acquisition of Crown Trust assets together with information package provided to interested parties;

3. Extracts from form INS-33.

Second, after the confusion created by reports of certain

statements alleged to have been made by Mr. Player and the apparent importance attached to those statements by the Leader of the Opposition (Mr. Peterson) and perhaps some others, I thought it could be useful to the committee to set out how we see the relevance of Mr. Player's position in relation to the need for the early enactment of Bill 215 providing for authority to transfer the Crown Trust Co. assets to a new, responsible party.

First, the basic issue the cabinet had to confront on January 7, 1983, was whether or not it could reasonably come to the opinion that there existed a practice or state of affairs within Crown Trust that was, or might be, prejudicial to the public interest or to the interest of the corporation's depositors, creditors or shareholders.

In view of the conclusion that the value of the Cadillac Fairview properties in question could not be regarded as exceeding \$300 million, and that therefore the whole principal amount of the mortgages granted by Crown Trust Co. and the other two trust companies would fall outside the 75 per cent of value requirement for qualified investments under the Loan and Trust Corporations Act, cabinet was obliged to act.

This would mean, among other things, that the borrowing base of Crown Trust Co. had been substantially, if not entirely, eroded. The borrowing base, while technically complex, is simple in concept. A deposit-taking institution like Crown Trust Co. is required to have a net equity of qualified investments and other assets over its liabilities before it can seek deposits from the public at all.

3:50 p.m.

This net equity is the borrowing base, which, multiplied by a factor regarded as prudent and established by the act or by order in council for the particular institution, produces an amount which constitutes the maximum level of deposits which the company can accept as guaranteed investments. This is the key mechanism for controlling the level of deposits in order to keep them within prudent limits for the protection of public depositors.

In the case of Crown Trust Co., before the Cadillac Fairview properties and Daon Development Corp. property mortgages and certain other questionable transactions took place, that net equity was in the order of \$45 million. As Crown Trust Co. was allowed a multiple of 22.5 times its borrowing base, this allowed it to have public deposits in the order of \$1 billion; approximately 22.5 times the \$45-million borrowing base.

In order to understand the significance of the Cadillac Fairview properties mortgages, it is necessary to recognize that not just any asset with value or possible value qualifies for the purpose of the borrowing base. The aim of the legislation is that most qualified assets should be secured by prudent and conservative investments because public deposit moneys are being used to acquire them. The problem with the \$63-million loans on the Cadillac Fairview properties apparently placed by Crown Trust

Co. is that they did not meet the prescribed prudence test of 75 per cent of the real estate value.

Any speculation that there could be subsequent developments as a result of which some or all of the mortgages could be paid off does not alter the issue which confronted the registrar and the cabinet on January 7, 1983, which was the potential for, or existence of, prejudice to depositors and others. As a result, even the full payment or purchase of these mortgages tomorrow could not alter the position as it existed on January 7, 1983.

Moreover, not only was the assessment by the registrar and the cabinet confirmed by the Woods Gordon report in some considerable detail, but in addition, that issue is not relevant to the position which now faces the government and the Legislature, which is the future of the Crown Trust Co. business and assets and the protection of its depositors in the circumstances which exist today.

What are those circumstances? First, taking the Daon mortgage alone and making the unlikely assumption that all other questionable investments could immediately be made into fully qualified investments or be fully redeemed, most of the \$53 million now outstanding does not, in present or foreseeable circumstances, constitute a qualified investment. As a result, based on that mortgage alone and making the favourable but highly speculative assumption that all other investments are fully qualified or redeemed at their full face value, Crown Trust Co. still does not have a borrowing base today on which to support deposit liabilities in amounts anywhere close to their current levels.

Mr. Renwick: What is the borrowing base today?

Hon. Mr. Elgie: Members of this committee would be the first to criticize and to condemn the registrar if he accepted the other problem investments apart from the Daon mortgage as fully qualified investments. They would be right and proper to do so. All this adds up to the simple fact that Mr. Player's revelations or lack thereof are irrelevant to the issue facing this committee and the Legislature.

Mr. Peterson: I have a simple question for the minister. It seems to me that the guts of your case to justifying moving in is the \$300-million valuation of the Cadillac Fairview property and the Daon situation, which you say may or may not be realized.

Mr. Markle is here. Mr. Markle was an investor in those buildings. I assume the other position is that those buildings are worth \$500 million. He put up some of his own money, at least some of his depositors' money, in that. Do you not feel that it would be worth while to have Mr. Markle come before this committee to explain how he would value that, so this committee would have the benefit of his opinion on that crucial question?

Would you not think that is reasonable information for this committee to have? I would ask you to instruct your back-benchers

to hear Mr. Markle at least, so all of us can have the benefit of the other opinion.

Hon. Mr. Elgie: The Leader of the Opposition knows full well that the issue before this committee and the Legislature is the issue of Crown Trust. The position of the government is clear. Information relating to the Woods Gordon report--in fact, the whole interim report--has been tabled with you confirming the government's original position. If there are matters in the future that relate to Seaway Trust, then I think this committee has every right to--

Mr. Peterson: With great respect--

Hon. Mr. Elgie: May I finish? I did not interrupt you.

Mr. Peterson: You do not understand what I said.

Hon. Mr. Elgie: This committee has every right to indicate that, in those circumstances, Mr. Markle should have the opportunity to present himself. I also say to you, quite frankly, the issues you are talking about--unrelated to Crown, by the way--are issues that are before the courts at the present time and will be.

Mr. Peterson: I just want you to understand exactly what I said.

Mr. Chairman: Mr. Peterson, may I interrupt you also? I think I, as one, take offence and on behalf of various others--

Mr. Peterson: You have no right; you are here to be an impartial chairman.

Mr. Chairman: I am a back-bencher.

Mr. Peterson: Are you here to flack for him or to run a committee?

Mr. Chairman: You have made a statement about the minister "instructing his back-benchers." I am a back-bencher in that same party. I take offence at that. I think it is quite improper for you to even speak of any of the back-benchers in that way.

Mr. Cunningham: That is exactly what he did. He went over to see Mr. Piché to round up members.

Mr. Chairman: It is quite improper for you to suggest that.

Mr. Brandt: Just for the record, may I suggest that any conversation that took place between the minister and Mr. Piché was not relayed to anyone else on this side of the committee. If you are talking about communications, I think you have a lack of it over there.

Mr. Peterson: Mr. Minister, I want to address the

question again because I think you have missed what we are talking about.

The key soft spots are the Cadillac Fairview deal and the the Daon deal. I would suggest to you that Mr. Markle presumably would have some knowledge of the valuation with respect to the Cadillac Fairview deal. I am not talking about Seaway Trust. I am not talking about the investigation into Seaway Trust.

We also do know that Seaway Trust is engaged in this kind of financing over a period of time with the tacit approval, presumably, of your ministry, which I do not expect you to admit or deny right now because you have been denying it for some time. The point is, I am suggesting that he can shed some light on that transaction, which is relevant to Crown as well as to other matters that may develop.

Would you not feel sir, that you could enlighten the committee by asking Mr. Markle to come forward to give his view of that situation? You and your experts, Mr. Macdonald, Mr. Biddell, Mr. Crosbie, Mr. Thompson and all those other people who know him so well, could ask him any questions they wanted to ask with respect to his interpretation of that valuation. Surely you would not want to deny the committee that information in this crucial deliberations we are undertaking.

Hon. Mr. Elgie: I have no doubt that the issue of valuation will be tested in some arena, but the issue before us here today is the issue of the Crown Trust rehabilitation act. I have clearly set out the reasons why I could not support what you are recommending.

Mr. Peterson: I have just one more point and then I will turn over the chair to my colleague.

Mr. Chairman: Point of order. Mr. Johnson.

Mr. J. M. Johnson: It was my understanding that a motion was tabled to hear Mr. Markle. The motion was defeated. The motion was also tabled to hear Mr. King and that motion was approved. Why can we not get on and hear Mr. King?

Mr. Piché: That is right. Mr. Peterson is out of order.

Mr. Chairman: Mr. Peterson has the right to address this committee any time he wishes.

Mr. Peterson: You are participating in a cover-up. That is what you are doing.

Mr. Breithaupt: Just to try to help, Mr. Chairman, what we are now doing is perhaps asking a few questions based on the minister's statement. I am sure that the next thing we will do will be to hear from Mr. King and we will get on with that as we had agreed. But it does appear to me, though, Mr. Chairman, that surely the reason this bill is before the House goes back to one point, and that is a difference of opinion as to the valuation of

assets upon which mortgages have been advanced to certain amounts which apparently jeopardize the viability of Crown Trust. Therefore, the pattern in which these valuations have developed surely is of great interest to this committee.

We have available to us Mr. Markle, who has been a participant in doing things in this way and has, as a result, in the last several years seen the value of the trust company for which he is the president and chairman of the board grow tremendously, at least on paper, in its assets and liabilities and certainly in the interest of the ministry. Since the Crown Trust bill has everything to do with how properties are valued and, indeed, this whole issue has nothing else in it other than that point, we should hear from Mr. Markle.

4 p.m.

I realize Mr. Rosenberg might or might not be available to us to explain his way of doing things, but the whole thing hedges and hinges on valuation of properties. If these properties have a substantial value, it may be that the 75 per cent rule was not broken. If, on the other hand, a willing buyer in Metro Toronto today would not pay that much in the view of the ministry and other valuers, then this government is acting appropriately and prudently to have this legislation in place in order to tidy up the pieces of an empire which has collapsed. We do not know which is correct.

I suggest to you, Mr. Chairman, following my leader's question of the minister, that a few moments spent on that area of valuation would be very helpful to the committee. I realize there has been a motion, but since we were discussing our procedures this afternoon and we are dealing with perhaps a couple of questions to the minister before we proceed, I thought it was worth while to set out why we are here, and why we are here has got all to do with valuation of assets.

Mr. Chairman: Mr. Swart, I apologize for getting you out of order here.

Mr. Swart: I just want to pursue the question that has been raised and state that I, too, believe that the question of valuation of the properties is essential to the determination of what we do with this bill that we have before us.

I made a simple request just before the conclusion of our meeting on Friday, and that was that the minister endeavour to get from the Ministry of Revenue the valuation of these properties as done by the assessment branch of the Ministry of Revenue. We all know they contain two sets of figures. One is the assessed value at the present time, based on a variety of factors, and the other is market value assessment. It seems to me that this was a very modest and a very reasonable request and something that would be of very real value to this committee.

Any figures brought forward by the ministry to some extent can be considered biased on valuation because they are endeavouring to substantiate what they have done. Any valuation, I

suppose, brought forward by the other side to some extent, too, can be considered biased because they are endeavouring to justify placing of the mortgages at these levels on these properties. But we have available in the Ministry of Revenue, it seems to me, an ongoing valuation of these properties which is an independent valuation.

I would like to have those before this committee and I regret that the minister has not even mentioned it in his report here today. So I ask again to the minister, have you endeavoured to get these figures? Are they going to be available to the committee? If not, why not?

Hon. Mr. Elgie: My deputy has looked into this on behalf of the committee and perhaps he could respond to that question.

Mr. Crosbie: Mr. Chairman, I made inquiries of the Ministry of Revenue and I am advised that the current value for purposes of taxation, which we all know is not relevant to the actual market value, is \$89 million. I understand there has been some field work done over the last summer in trying to bring the market value--I am not sure if it is the 1980 figures or approximately around that--and I understand that, applying some rough calculations to the Cadillac Fairview figures, and this was done rather quickly over the weekend, they came to a market value assessment of \$271 million.

Mr. Swart: If I could just finish my questioning on that, I am glad to have that report but surely we should have something in writing from the assessment branch of the Ministry of Revenue. They have market value on these. They have a method of bringing them up to date, as they apparently have done by this one particular method, but they can give us a pretty fair indication.

I am not questioning the accuracy of what you have told us, but surely we should have this in writing before this committee. It may substantiate what the minister is telling us, and I wouldn't be surprised if it does. I would like to have a report in writing on the market value of those properties from the assessment branch of the Ministry of Revenue. I don't think that is an unreasonable request whatsoever.

Mr. Cunningham: The issue here, simply distilled, is the valuation of the property. I do not think any of us here at the table are sufficiently qualified to act as judge and jury on just what the values of these properties, individually or collectively, are and therefore establish what is an appropriate borrowing base, what would be in the basket clause, what would not be a qualified investment or otherwise.

We have the opportunity today to hear at least, Mr. Rock, counsel for Mr. Markle. It seems inconceivable to me that we can hear from Mr. King on this particular subject when, on a matter that may very seriously affect Mr. Markle, we cannot take five minutes to hear from his counsel. I would ask members of the committee to reflect very seriously on that and be mindful that Mr. Rock and Mr. Markle are here willingly as volunteers. As a

committee, we should hear them. I think we should really reflect on that very seriously.

Mr. Mitchell: I would just like to go back to a point the minister made earlier. I am paraphrasing, but he did draw to the attention of the committee that there are actions which may or may not be under way in the courts. I think that is the most cogent point that has been raised with regard to why Mr. Markle should not be heard today.

In answer to the comment Mr. Cunningham made, you will recall that Mr. King is being heard because his involvement is directly with Crown Trust. That is all the comment I wish to make at this time.

Mr. Conway: Very briefly, Mr. Chairman, I would hope that all members of this committee would begin to reflect very seriously upon the mandate we have in this committee. We have exceptional legislation, the like of which we have not seen before. We have a proposal to sell private property that does not belong to us, for whatever good or not so good reason may be offered. We are told by those who know one heck of a lot more than the rest, those people in the executive branch of government, that if we don't act, and act quickly, there will be substantial difficulty that will devolve on the heads of all of us in the Legislative Assembly.

We are told here today by the minister, very directly, in the first paragraph on page 2, and I will quote some of that, "The basic issue which the cabinet had to confront on January 7, 1983 was whether or not it could reasonably come to the opinion that there existed a practice or state of affairs within Crown Trust that was or might be prejudicial to the public interests or to the interests of the corporation's depositors, creditors or shareholders." He goes on to tie that directly into the whole question of the Cadillac Fairview sale.

As my colleague the member for Kitchener has pointed out, the essence of that sale turns on the highly contentious issue of valuation. I don't know how members of this committee, in the heat of the night and the hurry of the day, propose to adjudicate this extremely important sensitive issue. There are some in this room who, by virtue of their executive privilege, know one heck of a lot more than the rest of us, and they are the ones who encourage this assembly to move expeditiously in this matter.

I am intrigued to know more about the central question as I see it, which is the whole question of valuation. That question has created much of the difficulty for the Crown Trust Co. I would be delighted if Mr. Leonard Rosenberg could be brought to this committee to explain his side of that whole business which is not accepted by the government.

4:10 p.m.

However, I just want to underscore the impossible catch 22 in which we, as a committee, find ourselves. I, for one, do not know how I can proceed with this bill when I do not have any

information on how the other side went about valuing these properties. To this very day, they insist those values are reasonable and fair in terms of market conditions.

It has been said before by the minister and his legal counsel that this deliberation on Bill 215 has to be a very narrow focus on the affairs of the Crown Trust Co. I just have to reiterate that the principal difficulty that we are told brought the Crown Trust Co. to its knees was its involvement in the Cadillac Fairview transaction. I do not know how we can separate the Crown Trust Co. from that particular apartment deal. Having said that, I don't know how we can deal meaningfully with that apartment transaction if somebody, somewhere, doesn't come before this committee soon to give us what is purportedly the other side.

There may be members in this committee who feel confident that we should rush forward in the absence of that kind of information, but I must tell you, as one who has sat here for some hours now, I don't want to count myself among that number.

Mr. Chairman: That is the end of the response to the minister's statement. Shall we then get on?

Mr. King and Mr. Finley, would you come up near a microphone, please? Mr. King, would you identify yourselves for Hansard and for the committee.

Mr. King: Mr. Chairman, my name is C. W. King. I am president of Hughes, King and Co., representing all the preferred shareholders of Crown Trust. My colleague is Mr. John Finley, QC, of Smith, Lyons and Co., legal counsel on behalf of the preferred shareholders.

I appreciate this opportunity to speak to this committee and to make some representations on behalf of the preferred shareholders.

Mr. Breithaupt: Perhaps Mr. King could advise us--I did not see it in glancing through the statement quite briefly--how many preferred shareholders there are.

Mr. King: I was going to come to that. I believe the press statement I made on Friday is before you.

On the question of the preferred shareholders, there are approximately 1,800 preferred series B shareholders and about 535 series A preferred shareholders. I would, however, like to point out to you that a number of shares--for example, there is one registration of about 76,000 shares held by a broker--that are held in brokers' names are in turn subdivided throughout their clients. Also I would like to point out that a number of the registrations reflect registered retirement savings plans and represent people's life savings.

Since last week and the introduction of Bill 215, it is only now becoming apparent to the preferred shareholders that their investment is in dire straits. Many of the shareholders who have called me would reflect what we call in the investment industry

widows and orphans. They are smaller investors. In one case, a husband and wife came to see me. They had lost a substantial part of their life savings in the Atlantic Acceptance Corp. situation, and had been encouraged to go to safe seas in Crown Trust--

Mr. Conway: Mr. King, I did not hear that last reference about the Atlantic Acceptance Corp.

Mr. King: Yes, it was just one particular instance. I am trying to demonstrate the fact that this is life savings. It is not a speculative real estate investment and what one would consider a high risk.

In one particular case, a couple came to see me. They were very much disturbed; in fact one party was in tears. Having dealt with the Atlantic Acceptance situation in the 1960s they had been encouraged to seek safer waters. He was not interested in capital gains or anything of that order, but was looking to a secure, steady, uninterrupted dividend return. He had been encouraged to invest in Crown Trust. You can imagine how upset he was.

I do not know how many others were, but I think it has only been in the last week that a substantial number of these shareholders have become alarmed at the fact that they may lose their investment entirely.

That in brief, is the background of who they are, and their numbers. To go back just a little bit in history, Crown Trust was incorporated in 1897. The first public offering of preferred shares of this company was in 1977. In the early part of last year a series B preferred share issue was done to exchange the Canreit Investment Trust which Crown Trust reacquired.

They are not voting shares; the shareholders have no say in the management unless eight quarterly dividends are missed. I believe the quarterly dividend in December 1982 was paid. It would be silly for anyone to expect that the dividend would be forthcoming in March, which would be the next payment period.

I am just reading my notes here.

We have been attempting to meet with the minister to discuss the matter since last November. We had a brief meeting with Mr. Crosbie last December. We had a brief meeting with Mr. Biddell's assistant last week. We are, however, completely in the dark as to the financial condition of Crown Trust, or what the minister and his advisers have in mind for the preference shareholders.

Under these circumstances, we very much oppose Bill 215 which is now before you. Bill 215 has the effect of expropriating the rights of the preference shareholders without compensation. I had the privilege of reading Mr. Breithaupt's statement to the House on Thursday night, and he very eloquently set out the consequences of this bill.

Bill 215 charges the assets of Crown Trust and the small investments of so many Ontario citizens. The massive expenses of the minister's army of investigators, under the command of Mr.

Biddell, at the rate of \$75,000 per day, is depleting the preference shareholders' investment at the rate of 2.5 per cent per week. Bill 215 grants to the registrar virtually total immunity to any claims for mismanagement of the assets of which he has taken control and possession.

4:20 p.m.

The preference shareholders are not real estate speculators, as Mr. Rosenberg has been quoted as describing himself. By far the majority in both number and value are citizens who have invested their savings in what they were led to believe was a safe industry which was government-supervised, people who wanted to look after their own needs in their retiring years, responsible citizens of this province. They deserve the respect and encouragement of this government, not the expropriation of their rights as shareholders and eventually of their savings.

Why should these preference shareholders bear the cost of the government's investigation? They are requesting that Crown Trust continue intact and that the confidence in the institution be restored by placing the company under new management. In this way the assets need not be sold at distress prices. The value of the so-called soft assets will in all likelihood be upheld if they are held as part of a continuing Crown Trust.

New management is very much required. Mr. Biddell is pre-eminent in his field, but his field is as a liquidator. He is not renowned as a manager, and certainly not as a trust company manager. New management could come from within the preference shareholders, which include trust and loan corporations and insurance companies as well as the individual shareholders.

At this point I might point out, in that I heard it raised earlier, that the trust companies or insurance companies, in turn, own these preference shares as part of their equity base and that, therefore, provides them with the ability to take premiums and deposits.

Another alternative for which there is a precedent is in an existing trust company, to be retained on an agency basis to manage the company. This function was recently performed by another trust company on behalf of District Trust, and a similar arrangement was used with Stratncona General Insurance Co. New management, combined with the financial support of the Canada Deposit Insurance Corp. and of the Ontario government, would, in our opinion, restore the public's confidence, not only in Crown Trust, but in the entire trust industry as well.

To allow the innocent preference shareholders to lose their entire investment is not poetic justice, as Mr. Macdonald describes it, or any other kind of justice. It is unjust and will cause very serious harm to the reputation of the industry.

Another alternative would be to ensure that the preference shareholders would have their investment returned to them by treating them in the same fashion as creditors. The preference shareholders are distinguished from the creditors only in form.

They are not owners, they have no voice in management and they are entitled to the opportunity to join the creditors in the government's lifeboat.

Here are some additional comments regarding Bill 215. There is no doubt in our minds that natural justice, where each party has a right to be heard, is being denied in this bill. Surely we would be entitled to a court review or allow the courts of the land to determine the merits of the situation.

We have not got complete information, but information that I think should be of interest to you as well as ourselves is what is the maturity schedule concerning the assets? Is it mismatched or is it not?

It is recognized that every portfolio manager has a certain percentage of his portfolio at more risk. On the other hand, the return is greater, and it is only prudent management to that end. Of course, it should not be abused, but one can only look at our chartered banks, for example. I do not believe there are any loans to sovereign nations or banana republics. I don't believe there are any large investments in the oil pasture out west. I don't believe there has been any assistance in government bailouts of Massey-Ferguson and so on.

These companies have been regulated. I refer you to the issue under the prospectus, the series A preferred shares dated April 5, 1977. I quote government regulation: "The Loan and Trust Corporations Act, Ontario. The company is registered as a trust company under the Loan and Trust Corporations Act, Ontario, and its operations are subject to inspection and supervision by the registrar under the act."

I would like also to point out that I understand that as of October 7 the so-called soft assets consist of less than 10 transactions. Therefore, one can assume that the capital put in place in the company by our preferred shareholders in fact went to purchase the hard assets. As a result of the government's design to be cast or left floundering in the ship, rather than joining the admiral in his lifeboat, it seems that we are being separated from the very assets that it made possible for Crown Trust to acquire from its multiplier base.

If we are not permitted to establish a management committee, then I believe that we would like to join in the bailout with the Canada Deposit Insurance Corp. and have our position redeemed as provided for in liquidation of assets under the terms of issue under the prospectus.

Mr. Chairman, I don't want to take up unnecessarily the time of your committee, but I believe that my statement of last Friday, which is before you, probably covers the substance of anything else I might have to say. I recognize the time constraints you are under. I would, sir, be delighted to respond to any questions that you or your committee may have.

Mr. T. P. Reid: Could we ask the gentleman to table the prospectus that he has indicated and any other documents?

Mr. Chairman: That is satisfactory, is it?

Mr. King: Yes.

Mr. Chairman: Fine, thank you. Give one copy to the clerk. He will make photocopies and distribute them to the members.

Mr. Conway: To you, Mr. King, and I want to indicate my almost complete ignorance of how these companies work, but I am rather intrigued to know what--

Interjection.

Mr. Conway: Yes, it probably is for the benefit of the member for York South (Mr. Rae), who by orientation and background is far more knowledgeable of these things than I am. I would ask you, Mr. King, to tell me what, if anything, the preferred shareholders knew, to the best of your knowledge, about the rather dramatic change in management and ownership, or at least management, of the Crown Trust Co. from whenever it passed out of the hands of the MacDougald-Black interests into Canwest and then into the fall of 1982 when it certainly fell into the hands of people whose background and disposition was far different to that of the earlier group. Was there any concern at that time?

Mr. King.: That is a good point. The reason that five or six of the institutional shareholders had retained our firm was, responding to your very question, that they were concerned that the complexion of the company had changed direction. It wasn't that we had foresight that this was going to happen, but it had changed direction.

I think you can appreciate that under the terms of the issue and the provisions that are assigned to the preferred shareholders they have no vote, they have no say in management. It really is another form of depositor interest, albeit at a greater risk in that the pecking order is further down from the depositors.

It would be only in default of the dividend that they would be entitled to put people on the board or have some say.

4:30 p.m.

Mr. Conway: We heard the other day that some of the long-time employees of Crown Trust were so concerned about irregular transactions with the new management, particularly the management after October 7, 1982, that they would not put through some of the rather exceptional requests being made of those people by the new management. Given the kind of street talk there always is, I am wondering whether or not you or any of the major components of the group you represent were sufficiently concerned in October or November to convey your concerns to any authority in the provincial government.

Mr. King: The company is under continual supervision by the ministry. I can only presume there were. Multiple-unit residential buildings, wraparound mortgages and things like that,

have been in vogue or have been a form of financing for years. MURBs, for example, are encouraged by the government. I personally don't approve of those types of investments, but it's something that's been in vogue. Perhaps in some circles I am considered square and conservative. People were aware of that, but the preferred shareholders didn't have an opportunity to raise those points until October 7. By November, we had six institutions that were very concerned and had taken steps.

Mr. Conway: Would you elaborate on how, specifically, they raised their concerns and what specific steps they took?

Mr. King: They took the step of retaining our firm to make representation.

Mr. Conway: When did they do that?

Mr. King: The end of November or early December. I haven't got the exact date.

Mr. Conway: That's fair enough. Did they indicate to you what their specific concern was? Am I right in thinking that they were concerned that this company had been taken over by the Greymac group and were now associated with a highly speculative apartment transaction in Metropolitan Toronto?

Mr. King: Yes, sir. The problem is the legal implications. It was difficult to speak frankly. The approach we took was to prevent the amalgamation of Greymac Trust and Crown Trust. It is not clear, under the Loan and Trust Corporations Act, whether we had a vote in that regard. Some years ago, I represented Hamilton Trust in its sale to Canada Permanent Mortgage Co. As a matter of courtesy we permitted and asked that the preferred shareholders have a vote in that regard.

In your deliberations regarding the future, I think it's proper that preferred shareholders in this industry have a say as to whom they want to be amalgamated with.

To get back to your question--

Mr. Conway: Sorry, I'm unclear on that. At the end of November or early December, six majors came to you and retained you out of the concern that we have identified. Now will you take us carefully through the steps that you initiated and discharged on their behalf?

Mr. King: We did receive legal opinion that our position is very arguable, in three areas. One was that when they would come for cabinet approval--I believe it's called an order in council--that we would declare the position we had not been consulted as "shareholders."

The other area simply is that, under the act, we felt we were entitled to vote as a class on the proposed amalgamation. Our instructions were to defend the position that we would vote as a class. The purpose of this was that Greymac Trust is a private company. The complexion of Crown Trust and the direction it had

gone since the issue of these shares, had dramatically changed from a good Mother Hubbard situation. Does that answer your question?

Mr. Conway: Again, this may be a completely improper question or a question that doesn't relate to reality as you know it, but did you at any point discuss any of these matters with directors of the Crown Trust Co. to communicate to them your concern on behalf--

Mr. King: I attempted to, but when I called, they did not know who was in charge. I asked for the president--

Mr. Conway: Leonard Rosenberg?

Mr. King: They did not know who the president was.

Mr. Conway: In November and early December, they--

Mr. King: No, in December. I was given a Mr. Stewart, I believe.

Mr. Conway: If I may just repeat that. In early December, when you called the head offices of the Crown Trust Co., no one in authority could assure you as to who was in charge.

Mr. King: I cannot say whether it was early December or the end of December. But some time in December I called the Crown Trust Co. to let them know we were taking this course of action.

Our normal course was not to go through the press and that sort of thing. Normally we would speak with the chief executive officer. When I called, they did not know who was in charge, who the chief executive officer was. When I asked who had the senior rank or the senior title, I was given, I believe, Mr. Stewart, who was the executive vice-president. He appreciated my call.

I told him what our position was going to be. I subsequently wrote to him to let him know that we would object to the amalgamation, and that we would ask that the preferred shareholders be redeemed out, as provided in the provisions of issue for the shares.

Mr. Conway: To the best of your knowledge, there was never any contact made between yourself or any of the six majors you represent, with any particular member of the board of directors of the Crown Trust Co.

Mr. King: No. People were being appointed to executive positions whom I viewed were not imbued with the integrity nor the experience warranted. I would have felt they were not aware of what I was talking about.

Mr. Conway: You did not have confidence in the new board that was being appointed.

Mr. King: No. That was my concern.

Mr. Conway: A final point, if I might. We, in this committee and in the House, have been told over the last number of days, that your property rights are in some jeopardy, but that the government has only two alternatives. Their silent partner in all of this, the CDIC, is constrained legislatively to wind down the Crown Trust Co., or sell off as much of it as they can as a going concern to someone who will buy it.

Your submission does not agree with that position. Your counsel would indicate a view, particularly to the role of CDIC, which we keep being told is vital to an understanding of the very limited choices this Legislature has.

Mr. Finley: If I might respond to that. The precedent we are referring to is a situation with respect to District Trust Co. in the recent past. In conjunction with the CDIC, we are advised that Sterling Trust managed the assets and operation of District Trust for some time, and still does. That is done in conjunction with the CDIC. For that reason, we see a precedent that we suggest would be appropriate in this particular circumstance.

Mr. Conway: Thank you very much. I was just asking my colleague, the member for Yorkview (Mr. Spensieri), and we cannot recall offhand, but maybe you can name some of the new board members who were appointed in November/December to the Crown Trust board.

Mr. King: I would rather not. I do not think--

Mr. Conway: That is fine. I can check that anyway.

Mr. Renwick: I have two or three points that I would appreciate if you would clear up. I take it from the information available to us, that we are talking about roughly \$19 million to redeem the shares.

Mr. King: It is actually a little lower than that, because under the provisions of issue, it provides for a sinking fund. I believe it is closer to \$18 million.

Mr. Renwick: So it is \$18 million to \$19 million to redeem the preference shares in accordance with their terms.

Mr. King: Yes.

Mr. Renwick: You have mentioned only the one discussion with the minister or his deputy. Could you tell us when that meeting took place and what the discussion was about?

4:40 p.m.

Mr. King: We met with the--I have not got the place precisely in mind, but it was in December. I met with the deputy minister, Mr. Crosbie.

Mr. Renwick: This would be early in December, before any action was taken?

Mr. King: Exactly. It was to present our concerns regarding the direction the trust company was going, to tell him about the action we proposed taking regarding the opposition to any amalgamation with Greymac. He was receptive to that, but did not volunteer support one way or the other. He was friendly about it. I left with the impression that if he was objecting to what we had to say, he would have said so.

I am sorry. That sounds like a roundabout way of saying it. But that is precisely the way I would understand it.

Mr. Renwick: How many meetings did you have at the end of November and early December with the Ontario Securities Commission and with whom did you have the meetings?

Mr. King: We advised the Ontario Securities Commission of the position we were taking. I talked to the chairman, Mr. Knowles, and I had a conversation with Mr. Salter, the director of the OSC.

Mr. Renwick: Were you, or any of the people who retained you, aware of what Woods Gordon, on page 11 of their report, referred to? "Of more serious impact was the request in December of its long-time banker"--that is the banker of Crown Trust--"to close its accounts as quickly as possible and to make alternative clearing arrangements. The company was not a borrower with the bank at the time." Were you aware of any such action?

Mr. King: Not until it was public, which I believe was in early January.

Mr. Renwick: You were not aware of that at any earlier time?

Mr. King: No, we were not.

Mr. Renwick: Would you, and Mr. Finley if he chooses to do so, put the case to this committee as to why preference shareholders should, in this specific case, be treated equal to depositors in the company, and differently from common shareholders?

As I understand it, you are taking the position that in a company like Crown Trust, preference shareholders are entitled to significant protection apart from the terms and provisions of their shares.

Mr. Finley: In strict legal terms, and terms of which you are quite aware, a preferred shareholder does not rank *pari passu* with the creditor, but does rank in priority to a common shareholder. In legal terms, there is no question about that.

We are dealing here with a preference share of a trust company, which to citizens in the street is an industry that is highly regulated, to the point of the shareholder relying upon it to be regulated. He has no say in the operation or management of the company.

For that reason, we suggest to you that, rather than expropriating the preferred shareholders' assets for the perceived sins of the common shareholders, which as yet have not been proven, we would suggest that it would be more than equitable if the preferred shareholder be treated in the same way as the depositors, rather than the common shareholder.

Mr. Renwick: What is the attraction of the preference shareholder as an instrument for raising money for a trust company such as Crown?

Mr. King: The preferred shareholders, from the company's point of view, provides--

Mr. Renwick: No, from an investor's point of view.

Mr. King: An investor's point of view is that it provides a senior security, usually with an attractive dividend with an assured dividend coverage. From a tax point of view it provides after-tax benefits, dividend tax credits, and so on for those who are have higher incomes.

Mr. Renwick: If I could just briefly touch upon the District Trust question, were any shareholders or share investors of District hurt as a result of the troubles that occurred when Sterling Trust Co. took over the management by arrangements with the registrar and with Canada Deposit Insurance Corp.?

Mr. King: I do not believe there were any preferred shares of District Trust involved, but in the British Mortgage and Trust Co. situation, the common shareholders in the end realized \$14 a share, again, presumably on soft assets that were not there.

Mr. Swart: I want to ask some questions which are pretty fundamental to me. I do not profess to be an expert in this field, perhaps somewhat less than the member for Renfrew North (Mr. Conway).

I would like it, Mr. King, if you could give me some guesstimate of what this will mean to the shareholders if we proceed with this bill and it is passed, and the likelihood of the drop in the value of the shares, if this was sold off at the end of this week, for example. That may be something of an unfair question, but if the government proceeded as proposed by the end of this week, what would this mean in loss to the shareholders, percentage-wise or anything else?

Mr. Finley: Mr. Swart, if I might respond to that question, our difficulty is that we are as much in the dark as it appears you gentlemen are with respect to the plans of the government.

Let me put the issue this way. As we understand it, the intention is to remove the so-called hard assets from Crown Trust, to dispose of them to one of the five suitors, and to leave the soft assets in Crown Trust where \$20-million worth of preferred shares are held by a number of individuals. After eight quarterly dividend are missed, which would put it into approximately January

of 1985, we would have a vote and the ability to elect two members to the board of directors. In the meantime, if the control is handed back to Greymac Trust, they could do as they wished with the assets of that company.

What would you think the preferred shares were worth?

Mr. Swart: I really do not know. That is why I asked the question. I have an idea, yes.

Perhaps I can put a supplementary to that. If Crown Trust were to be sold off at the end of this week, not parcelled out but sold off in one block, what would the effect then be on the shares? What loss do you estimate there would be from the period of say, November or even December 1, until the time they are sold now?

Mr. Finley: It would be solely a question of the mark-down from face value. These assets would be sold at what is popularly called distress prices. The phraseology the liquidators use to talk about it would be so many cents on the dollar.

I have no idea what those are. I think perhaps the minister's adviser would be more able to tell us how much we might expect. I have no idea.

Mr. T. P. Reid: Eighty cents on the dollar has been bandied around.

Mr. Swart: Perhaps Mr. King, who has had quite a lot of experience in this line, might give us some indication of the kind of loss we are looking at.

Mr. King: I think it is a question of confidence. If there is a fire sale, it will be a fire sale. As you know, when you go to an auction sale there is a price and it is an intrinsic value. Intrinsic value is realized over a period of time. I think this is an element the minister is struggling with now, the so-called price and value.

4:50 p.m.

I do not mean to be evasive, but I do not think there will be any value to the preferred shares if there is going to be a fire sale. I think it will be wiped out, as this gentleman, Mr. Reid, says. If it is 80 cents a share left to the depositors and they are short by 20 cents, there is not going to be anything left for the preferred shareholders.

Mr. Swart: I would like to get the comparison of that and what you are proposing. I am not just exactly sure what you are proposing, but there must be some risks if it is not sold and it goes on as an operating unit with the situation it is in.

First, exactly what are you proposing as the alternative to the sale?

Mr. King: Mr. Swart, I suppose the first thing is we

would like to be redeemed out, period; that we be floated with the admiral in his boat and realize, hopefully, in time on our assets that way.

Alternatively, there are two subcomponents to this. One is that the company be placed under the management of its preferred shareholders. Many of the fine institutions and some, sir, from your town, who are the preferred shareholders, are in a position to put up a management committee, people of stature and integrity. Hopefully, that would provide credibility and confidence that the company will pull out of it with the support of the CDIC and this government.

The subcomponent of that is simply to place it under a management situation, as the government has already done with District and Strathcona and so on. A company, perhaps with the preferred shareholders' blessings, would be run on an agency basis as an adjunct of another company, either to be wound down in an orderly fashion or amalgamated in due course.

At some point, the liabilities would then be determined, rather than having the committee guess what the value price is, and distribution would then be made to the shareholders. Or a proposal could be made that at some time in the future they would be paid and that the managing trust company would be rolled into that company's assets and a share exchange arrangement could be made; something of that order.

A third corollary under that basis would be that an adjustment on dividends be imposed on the preferred shareholders, say in five years, to make the shares retractable. That would then give the acquiring company an opportunity to refinance.

I might add that if Bill 215 goes through--I have done quite a bit of financing for trust companies in the last 10 years--we will have destroyed a financing ability of a very noble industry.

Mr. Swart: Am I right in assuming that you are suggesting that we not pass this bill in its present form to sell it, but rather we carry on with existing legislation which gives the power of management or some change in that legislation?

Recognizing that the shareholders are in the same boat as the depositors--perhaps they are not at the leaky end of the boat--do you feel there is a better chance of their security in continuing on with this company than in selling it? The same thing would apply to the depositors. That is what you are telling us, is it?

Mr. King: I am saying that I firmly believe we can restore the credibility of the company by the placement of men of stature and soundness to see the situation go through. I believe with the co-operation of the ministry and the government and nonpartisan aspects here that this can be done and we will salvage something for everybody, including the preferred shareholders.

Mr. Swart: I understand that is your first and highest

priority. Second, if it is going to be sold, it should be sold as one unit.

Mr. King: Exactly, because we are really being disenfranchised, not only in our rights but disenfranchised from the assets that these preferred shareholders created the ability of the company to buy. If there were no soft assets prior to October 7, it therefore stands to reason that the preferred shareholders created the opportunity of acquiring hard assets. We are being disenfranchised from that aspect.

With Bill 215, as a citizen of this province, I have grave concern that this type of arbitrary measure can be conceived of in this day and age.

Mr. T. P. Reid: You tabled, sir, the prospectus for the A shares. Do you have one for the B shares as well that you could provide for us?

Mr. King: I don't have it with me.

Mr. T. P. Reid: Perhaps you could provide it at a later date. I find it intriguing that you gentlemen should refer to, I presume, the good doctor as the admiral. It seems more to me as if he is the captain of the Titanic, the Lusitania, or the Andrea Doria in this particular situation.

Mr. King: Mr. Chairman, I'm sorry, I do have available an information circular or offer to purchase rather than a prospectus. It is a document of the company. May I table that?

Mr. Chairman: Yes. When I questioned Mr. Reid a moment ago, I tried to recall whether he asked for information on the As and Bs and he confirmed that he did. It appeared to me at the first glance that this was regarding preference A only.

Mr. King: We are now acting on behalf of the series B preferred shares. We are acting on behalf of all the preferred shareholders of Crown Trust Co.

Mr. Chairman: Yes, but I understood that Mr. Reid asked for and you concurred that you would have information on both the A and B preferreds.

Mr. King: I have already given you the prospectus for the series A. I am now giving to somebody here the offering circular, not a prospectus. Both documents will be on file with Ontario Securities Commission.

Mr. Chairman: You have been given that and that is being copied right now, is that correct? Thank you.

Mr. T. P. Reid: I just have a couple of things. In your opening statement you referred to Mr. Biddell as a liquidator. It does appear that has been Mr. Biddell's background, that he goes in almost like the sheriff at the death of somebody very badly in debt and, as the widow is standing there, he is carrying all the possessions out and selling them, sometimes before the body is

even buried. That seems to be what is being done here, because we don't have all the facts in the case and we are not sure really, at least I'm not sure, what condition the body is in.

The question I guess is, could you expand on that? I had the feeling when you made your remarks that you might have been indicating that--well, you've given us your alternatives--this action taken by the government is being based on obviously, among others', Mr. Biddell's advice, and that Mr. Biddell, in your view, is a liquidator, as you called him, and that the other alternatives are just as valid.

5 p.m.

Mr. King: The point I'm really trying to get at is that we talk about soft assets and hard assets and other kinds of assets, but if the assets are matched and if they are being serviced, there is, in effect, no insolvency. Therefore, I submit, regarding the question of the suasion of the ministry to a company as to its multiplier base, that here are companies around that have a restricted multiplier base, and it is a question simply of saying, "Look, get on side or we have concern about these assets and so on." But to disrupt the entire industry, from the information that we have, boils down to a question of judgement and prudence. I'm not in a position to say whether it's prudent or not prudent.

I have said that I am not fussy about wraparound mortgages and multiple unit residential buildings and so on, but if five per cent of a portfolio of what I understand is \$1.1 billion is in so-called soft assets, from a portfolio management point of view, I don't believe that could be that serious. In any event, with the information, we have it's very difficult to give you a judgement on the matter.

If there is a fire sale, there will be nothing for the preferred shareholders. If there is an orderly wind down or an orderly type of management put in place, and I think the caveat is, "Let's put in a board of substance with CDIC support," and so on, we will work through it and encourage it. I think that a company that is 100 years old, since 1897, could come through.

I understand the employees of Crown Trust, many of whom I know and have worked with at times over the years, are sound and well trained. I think there is a possibility to preserve jobs here. If it is just put with another company, no doubt there will be jobs lost through economies of scale and so on. Also, with some of the suitors that are in mind, we're having a concentration of this industry in fewer and fewer hands. I don't believe it is in the interests of the citizens of this province to have their choices restricted.

Mr. T. P. Reid: You raise the interesting point that I wanted to mention, that if Victoria and Grey was the suitor to wind up with this, it would seem logical that it would probably close down Crown Trust, the offices, the buildings. Perhaps they would take some of the employees. If it goes to an existing trust company that is already in business, presumably a good number of

the Crown employees would lose their jobs. I realize that's not particularly relevant.

Mr. King: No, but you must bear in mind that at Victoria and Grey, I understand, which is controlled by a party, that same party owns 40 per cent of National Trust too. The stated objective of the government, I understand, through a white paper, is to reduce the ownership of these companies gradually down to 10 per cent. Are we going to further concentrate the ownership of these companies? We have to be realistic.

Mr. T. P. Reid: I take it when you spoke to Mr. Crosbie and since that, acting on behalf of preferred shareholders, you have not been given a list of the so-called soft assets.

Mr. King: No, we have not. We have through Mr. Thompson's office received very promptly a list of the preferred shareholders. Now we have a complete list of the preferred shareholders.

Mr. T. P. Reid: Does not the fact of the government's very stating that these are soft assets de facto make them soft assets?

Mr. King: I suppose so. It certainly undermines the confidence of the situation. I am not sure whether I am prepared with the information that I have to say that they are that soft. I think it's a matter of degree. Certainly with interest rates declining, for example, I would have to say that the soft assets have improved in value.

If you have a 14 per cent bond of Stelco, with the decline in interest rates that bond has gone up in value; yet we know that Stelco is only at 40 or 50 per cent of capacity. You can buy treasury bills at seven or eight per cent, but an improvement under normal circumstances would improve the value of the so-called soft assets.

Mr. T. P. Reid: What is the usual percentage in a trust company, given your experience, that is put aside for contingencies or bad loans or what appear now to be soft assets? What are the assumed losses on a year-to-year basis? Every investment, obviously, does not always pay off.

Mr. King: Right. Normally, we write off the assets that are, in fact, written off. If there is a foreclosure on a mortgage, that asset is written off. It is really determined by the board of directors as to their assessment of the total portfolio.

Rather than assigning individual mortgages to a reserve, we normally take upwards of two per cent of the portfolio. There is obviously no reserve under that part of the portfolio that relates to government bonds--domestic bonds, that is--because we generally feel they are quite secure.

It varies from company to company, depending on the mix of

its business; that is, its fiduciary business, its guaranteed account business and the company's own funds business.

Mr. T. P. Reid: I thought I heard you say earlier, to the best of your knowledge, given that no one knows what these so-called soft assets are, you would consider that they would be around 2.5 per cent of the total portfolio, which would not seem to be out of line with normal business practice in that sense. Is that correct?

Mr. King: Yes.

Mr. T. P. Reid: I have one last question. It relates to the matter that I spoke at some length about and I would like, incidentally, to ask the minister if he would like to table with us the advice of the law officers of the crown in regard to the constitutionality of this bill.

You referred to, I think, the excellent comments of my colleague from Kitchener in terms of natural justice and our new Canadian Constitution and Charter of Rights. Subsections 10(1) and 10(2) of this bill, particularly, offend most of us as legislators.

Could you give us your view on the legal aspects of that, as you see it, and where that would put your clients vis-à-vis the courts on this matter?

Mr. King: Mr. Reid, I would like to refer to our counsel on that. We have done some work on that but we are limited, as you are, in the scope here.

Mr. Finley: Mr. Reid, I don't wish to foreclose any possible avenues that I might wish to use in another forum on another day. Consequently, I can only tell you what my initial reaction to the constitutionality question might be.

I am offended by the provisions of Bill 215; I find them arbitrary. To use a hip word from my teenagers, I find it gross. On the other hand, unfortunately, I can't call it unconstitutional as I presently view the matter, although I wouldn't want to say that I have concluded my review of the legislation. I may want to argue to the contrary at another time.

It is unfortunate that when our Constitution was put together, the thrust and parry of our representatives at the constitutional conference did abandon what would have clearly dealt a blow to this legislation, and that is the removal of property without due process. Unfortunately, that is not there.

I am aware that the government of British Columbia is very much in favour of this being on the agenda for the first revision of the act and that steps are being taken in that regard, but unfortunately, it isn't there right now. So another method or basis for supporting property rights will have to be found within that Constitution in order to base an unconstitutionality argument. To date I haven't found it, but I haven't given up hope.

Mr. Breithaupt: I think the Prime Minister would have

agreed with your views as well, but they did not seem to pass at the time.

Mr. T. P. Reid: Could you comment on the natural justice of the matter? Perhaps that has a wider application than the preferred shareholders. I am not a lawyer, but it occurs to me that sections of the bill, particularly section 10, don't allow the citizen, whoever he or she may be, to have this reviewed by the courts or have a day in court to have the case heard. In my understanding, that is a denial of natural justice.

Mr. Finley: I would agree with you.

5:10 p.m.

Mr. Brandt: I wonder if perhaps you might be helpful in reviewing just a little bit of the history, the background, of how you became involved. You alluded to part of this question earlier.

The point I am trying to direct my question at is at what point do you find a mechanism which triggers you into involvement in some of the actions which you are now taking? Do you receive word, as an example, from a group or an individual within the preferred shareholders' forum? Do you have any kind of an ongoing monitoring function?

What actually triggers you into action before you start to proceed with the presentations and so forth? I have a reason for asking that question.

Mr. King: Are you referring to how my firm became involved?

Mr. Brandt: Yes. You have been involved for some years, I would guess, for some period of time.

Mr. King: Our firm fulfils a twofold function. We are licensed as investment counsel and portfolio manager under the Ontario Securities Commission. At the same time, we also are retained by corporations to provide financial advice to them as to going public, raising capital and that type of thing.

It was through that avenue of our work, in acting for a number of companies, that this was brought to our attention. We were asked to organize a meeting to discuss the concerns we had. It was represented to us at the end of November and early December.

As I said, at that time our concern really was with the amalgamation with Greymac Trust and the change in complexion of the company.

Mr. Brandt: In speaking with certain individuals who are involved in the trust field, one of the things that has come home rather directly to me is that there was perhaps a flag that was flown at a relatively early stage in this whole exercise where, as a result of Crown Trust offering rates that were above those being offered in the market and advertised quite frequently in the newspapers and this kind of thing, that that should have been, in

the minds of at least some people, an indication that an investment in that company was relatively more speculative than it might be, if I can use this term, a more conservative investment portfolio of perhaps another trust company.

Was that a matter of any concern to you at an early stage?

Mr. King: Yes, it could be. But bear in mind that that is a management function; the preferred shareholders had no ability to make representations in that. Bear in mind that many companies do offer from time to time a little higher rate in order to get themselves in a matched position, where they need funds to pay off GICs or that type of thing.

As you know, the banks and many of our trust companies did find themselves in a mismatched position and, because of the fluctuation of interest rates over the last 24 months, I wouldn't be too critical of them in the sense that whoever expected 24 per cent interest rates and so forth? As an ongoing matter, you find if trust companies don't need funds, they don't bid as high; if they need funds, they bid higher.

Normally, trust companies will operate on a minimum of about a two per cent spread, that is, deposited funds and the employment thereof. Two per cent is fairly standard in the industry. Some of our more aggressive trust companies, particularly those that are operating in more regional communities, and depending on the type of mortgaging they do, will operate up to a four point spread. By point, I mean basis points.

Mr. Brandt: If I am to understand your position correctly, and in reference to Bill 215 specifically, I get the impression you are saying, rather directly, that Bill 215 provides shelter, obviously, for a certain segment of the investors in Crown Trust but leaves others exposed. Therefore, you are appealing to us in opposition to Bill 215.

Proceeding then along that line just for a moment, what is your understanding of the requirement of the CDIC with respect to any infusion of capital that would be required? From the statements that have been printed publicly indicating that an infusion of capital, first of all, is necessary and, second, that it would be required that Crown Trust be in the hands of a well-known, totally acceptable kind of company, do you feel that we are in somewhat of a catch-22 situation in that what you might be proposing as being a viable and equitable solution to the problem may be less than possible, if I am to understand the position of CDIC?

Mr. Finley: If I might just make a preliminary comment, I do not want to interrupt the flow of the questions, sir, but you inferred that we were objecting to the fact that the preferred shareholders were treated differently from someone else under Bill 215. That is not our contention.

Bill 215 tells us nothing. All we have, on the basis of which we feel we are being badly treated, is what has been publicly stated by the minister as his intention. Bill 215 merely

provides the power so that they can do what they wish without consultation with anyone, but Bill 215 does not create the prejudice or the preference. It tells us nothing other than that the registrar is going to be empowered to a vast extent to deal with the assets here without being called to account.

Mr. Brandt: Quite obviously, in the interests of protecting your clients, you are suspecting it is going to be the worst in terms of impact?

Mr. Finley: Certainly the public statements on behalf of the minister would indicate that, yes.

Mr. Brandt: Could I then address the same question with respect to CIDC and the ultimate end at which Crown Trust may find itself? What is your feeling with respect to the statements that have been made in that connection?

Mr. King: I feel that, with the support of the CIDC--after all, it is an insurance company in its own right, supported by the premiums paid by the insurance industry--with some accommodation, if the assets are matched and are serviced, there will be no need for the CIDC to put up anything.

Mr. Brandt: Could I perhaps, at some point, ask the minister--or perhaps he would prefer to redirect--could we get the position of the ministry in regard to some of the questions that we are raising? Fundamental to this whole question is what the CIDC will allow in terms of the disposition of the company.

I do not want to be caught, as a member of this committee, in a situation where I am perhaps fuzzy in my thinking with respect to what we have to do. In other words, the ultimate sale of the assets to be disposed of to someone else who is acceptable to CIDC has not, at this point, been totally cleared up in my own mind. The minister has made some statements and there have been some public comments to that effect, but I am still not certain as to where we stand with that.

Mr. King: On the question of the CIDC, as I understand it, and bear in mind it is a fairly low-key body in the sense that it does not disclose itself too much, I do not believe the CIDC actually controls the deposit-taking ability of the industry. That is controlled by the ministry itself. I think probably that is where they rely on that being properly supervised.

I come back to the fundamental problem, however. If you can tell me that the assets are substantially serviced, then I do not see the CIDC having to put anything up. If you allow the company to be managed as we have suggested, and with that comfort that the CIDC is there in the event of default or shortfall, then I think it will work out.

If, however, you are saying that the assets are not matched and that the company, under the present cloud, will not be able to raise capital in order to meet its obligations, then I quite agree there is a problem.

5:20 p.m.

Mr. Brandt: What exactly do you see as the role of the the ministry and the government? You stated a couple of times in response to earlier questions that if there is no insolvency you do not see a real problem. The information we have, which is verified by the Woods Gordon report, is that the company was in fact in violation of statutory regulations that have been laid down. In fact, the ministry is being criticized--

Mr. Renwick: It is still an open question.

Mr. Brandt: Well, it is not too open in the report. The report would indicate that, as of that particular time, January 7, there were certain violations of regulations, and there are members of the opposition who have made that abundantly clear to the ministry and have criticized the ministry for not moving in earlier.

Do you not see a role for the government to move as it has with regard to the protection of the assets to the extent that it is able to?

Mr. King: I think it has been abusive in its power, in the draconian extent to which it has gone. Our chartered banks, for example, operate on a multiple that varies between banks, but is between 26 times and 30 times.

You and I know that last year, for example, some of the banks were up to 36 times that multiple. No government seized the banks because they were in violation. The industry has to operate in the suasion method, in my view, but when it gets offside, it is put under a multiplier restriction perhaps, or told to get onside. To actually pull the plug on the entire industry like this--after all, on paper, trust companies are more sound than chartered banks because their assets are regulated.

Mr. J. M. Johnson: Mr. Chairman, may I have one supplementary question?

Mr. Chairman: We have the minister and Mr. Conway.

Mr. J. M. Johnson: This is just a brief supplementary question.

Mr. Chairman: Very brief then.

Mr. J. M. Johnson: The question I have concerns the fact that a bank is not controlled by one individual, as happened in this case. Is this not the difference?

Mr. King: I agree that banks are not controlled by one individual. I am just stating a fact, that it seems that banks, on paper, are at about a 40 per cent greater risk than our trust companies are from a multiplier point of view, but also because there are no restrictions, except for limited aspects, on their assets. They can make loans to whatever extent they want within certain bank policy guidelines.

We have to differentiate. A relationship in a bank is a debtor-creditor one. In a trust company, you are still the beneficial owner. That is the difference between the two institutions.

The fellow in the street, however, making a deposit in Canada Trust or in the Canadian Imperial Bank of Commerce across the street does not see any difference. On paper, there is no doubt that our trust industry is in a more secure position than are our chartered banks.

Mr. Brandt: I have, if I might ask it, one brief final question. Have you had an opportunity to review the Woods Gordon report? Has that information been made available to you?

Mr. King: No. As I mentioned earlier, we have met with the representative of Mr. Biddell's department; that was kindly arranged by the deputy minister. We were asked to keep the substance of the meeting off the record. Basically, however, we were told to put up \$50 million.

Mr. Brandt: I asked that question--and I am not trying to delay this, Mr. Chairman--because, within the context of that report, one of the frightening things I found was that some of the heaviest investments for mortgage purposes made by Crown Trust were made in a very tight time frame that was highly unusual--not necessarily unlawful--and highly irregular, when you look at the percentage of investment of those particular investments as they impacted on the total portfolio of the company.

I am going to be searching for an answer as to why there was such a need for a rush of completing the transaction of multi-millions of dollars within a matter of a few short days, which is just highly unusual. It just does not happen and would be, in my view, quite irregular.

Mr. King: I would have to agree with you. In dealing with board mortgage committees and things like that, you know how it goes from one committee to the next and so forth. A transaction this size normally would be dealt with by a board of a trust company and that obviously would take time. I cannot believe that it was put together in two or three days. It was a massive transaction and mind-boggling. It boggled my mind.

Mr. Brandt: I am speaking of two in particular, the Vancouver commercial building and the Cadillac Fairview buildings. In both instances there appears to be some rather mad rush to complete this whole transaction. Albeit one could look at it and criticize it for the lack of information and substantive documents that would justify that kind of investment, the time frame concerns me.

Mr. King: I think one of the reasons, where you would have to agree as to the rush, is that you are dealing with a lot of money. For trust companies that have to commit themselves to have funds of that size available, even one day is costly. I think the very size of the transaction would demand a fairly speedy

completion of all the paperwork and legal documentation. I would think that that would be part of the matter.

The other thing to bear in mind too on that transaction is that it is probably the finest real estate in this country. I am not speaking as to value or whatever, but that in itself is, I think, one of the attributes of the transaction.

Mr. Brandt: I have to ask one final question if I might on the 700,000 square foot building in Vancouver. I have had some experience in development and in mortgages and in the real estate industry and from my own history in that particular field it would be rather usual and common for a building of that size and that magnitude to have either a lead tenant or a series of very strong tenants that would assure a high percentage of occupancy at the point of opening.

In other words, with respect to the very substantial size of the investment, the nature of the building, the cost of the land, putting the total package together, do you have any response or any answer as to why the company would invest in such a highly speculative investment?

It just does not follow that it would, on a flyer, invest in very expensive land and then a very expensive building in the heart of downtown Vancouver without knowing that it had a market. By the way, there was no market study, as I understand it, taken to indicate a demand for that kind of space to be brought into the market. All of those things taken together again would cause me some concern about why the company would do that. Do you have any answers to that?

Mr. King: I cannot believe that there was no market study done. Second, it is the largest building, I gather, in Vancouver; it is a flagship building. In real estate investment--I am not an expert in real estate as a component in an investment portfolio, but I cannot help but think that investment in real estate is a longer-term, horizon-type return. Normally, I would have thought that one would have syndicated that. Is that term familiar with you?

Mr. Brandt: Yes.

Mr. King: I would have been inclined to have looked at a syndication rather than a total ownership position. Was Daon not the lead tenant there?

Mr. Brandt: Yes.

Mr. King: Of course, they were experiencing financial difficulties too, but in the short term I am told that their investment portfolio is of high quality and, given the horizon return to normal economy, they would have no doubt realized on it.

Mr. Chairman: Members of the committee, the minister and Mr. Conway wish to take supplementaries. There are seven people behind them, one of which is Mr. Conway. Do the other members

behind them wish those people to ask questions at this point, the minister and Mr. Conway?

Mr. Conway: I will gladly stand down until the end of that list.

Mr. Chairman: Do you wish the minister to respond at this point? Fine.

5:30 p.m.

Hon. Mr. Elgie: Mr. Reid asked about the constitutional issue. I think the Attorney General (Mr. McMurtry) stood in the Legislature and indicated his view that there was no constitutional problem with the legislation. But if I may, Mr. Chairman, I would like to ask Mr. Macdonald to comment, if he would, on some remarks and questions that have been made to date which might be of interest to the committee.

Mr. Macdonald: Mr. Chairman and members of committee, Mr. King represents a group of people who fully have a right to be concerned, and he raises a number of issues and makes a number of observations. I will see whether I can make some observations that will be helpful to him, because I think he deserves some response in terms of the view of the government, at least as I understand that view, and it may also be helpful to the committee.

I think one thing should be put out of the way. It may not be perceived as a complete answer to Mr. King's concerns, and we can discuss in a moment why the government concluded that what he might regard as a complete answer was not an appropriate answer in the circumstances. It has always been the intent of the government, as I have understood it, that shareholders, be they preferred shareholders or common shareholders, would have a full right to complain before the court on the conduct of Crown Trust business by the registrar or his agents and on the prudence or lack thereof of any transfer of the business or assets.

As I understand it, people have raised the question as to whether the bill, as originally presented to the Legislature, achieved that. As there often is, there was a difference of view among lawyers, but the position of the minister, as I understand it, is that he will be proposing to--

Hon. Mr. Elgie: It is tabled.

Mr. Macdonald: You have done it already, have you? I do not understand your procedures. I thought that it would be proposed when you got to that particular clause. So apparently already in terms of the procedure it has been proposed. Let that be made clear.

Mr. Rae: If I may, Mr. Macdonald, you are suggesting that the amendments that the minister has put in section 10 satisfy that right in terms of access to the courts?

Mr. Macdonald: Access to the courts on the issues of whether or not he has exercised-- Let us just read the language.

Mr. Rae: Are we looking at a procedural right or are we looking at a substantive right? I guess that is the question.

Mr. Macdonald: The amendment says: "...except an action against the registrar otherwise available in law for the recovery of damages incurred as a result of any failure of the registrar to act honestly and in good faith or to exercise a degree of care, diligence and skill a reasonably prudent person would exercise and discharge in the duties and responsibilities of the registrar in comparable circumstances..."

Mr. Spensieri: That is simply the gross negligence provision while in an interim basis.

Mr. Macdonald: No. I read something more than that, "a degree of care, diligence and skill that a reasonably prudent person would exercise." I see that as a higher duty than gross negligence. I see it as such, although again I would assume that if someone could convince the legal advisers, and by that I am thinking of legislative counsel, not me, that that failed to achieve the intent of the government which is, as I have stated it, that if there has been a lack of good faith or a lack of reasonable commercial prudence in the circumstances in which the registrar is having to act, then anyone who suffered damage, which could be the preferred shareholders or the common shareholders, by reason of that would have access to the courts. I understand that is the intent.

Mr. Rae: I wanted to get into an argument with you, but I will not.

Mr. Macdonald: I am probably the wrong guy to get into an argument with.

Mr. Rae: I am not so sure. Judging by what I have seen, I am not so sure you are.

Mr. Macdonald: The other issue which concerns Mr. King, and obviously concerns this committee, is the question of what alternatives are available to any government in the circumstances in which this particular government finds itself. We have gone over it, but it may be useful to go over the possible alternatives in order to focus on Mr. King's proposal and perhaps to reassure him and the committee as to what is contemplated and what, hopefully, may be able to be achieved, if and when this legislation is enacted.

One possibility, in the face of the assessment made by the cabinet on January 7, or on the basis of a reassessment made by the registrar and the cabinet today in the light of additional information that has flowed since January 7, would be to simply leave the company in the hands of its present owners and see what happens. That was a possibility on January 7.

It is possible that for quite a long time no one would have known what was happening. However, one is inclined to believe that at some moment in time the underlying realities that were disclosed in the Woods Gordon report would have caught up with the

company, except that by then the situation would almost certainly have been worse.

In any event, whether the government should have or should not have done that on January 7, it did not. They decided that they could not allow a company whose entire borrowing base appeared to have been eroded--not just a matter of adjusting multiples, as a 1,000 multiple on zero would have only permitted a zero deposit liability permission under the Loan and Trust Corporations Act.

One possibility would have been to cancel their entitlement to continue as a loan and trust corporation, having clearly lost their right to continue in the absence of any borrowing base at all. But that would have simply left this company and the other companies--if we went beyond this one--and, by association, all other trust companies, to fend for themselves in an uncontrolled situation.

Clearly the government did not feel that it could do that. It could, however, have encouraged CDIC, as the party with the largest stakeholder, to put the company into liquidation. If it had done that, the best judgement of those advising the government based on long experience is that the kind of distressed circumstances that arise under a liquidation would guarantee the least advantageous disposition of the business and assets of the company.

The other alternative, which is the alternative worked out with CDIC within the restrictions of their legislative mandate, was to attempt to save Crown Trust Co. We are dealing today only with Crown Trust Co.

One week later, the judgement was that it would be possible to save Crown Trust Co., but only if somebody with money was prepared to back, with substantial sums, whoever carried on that business, in order to repay all depositors and to provide a backing that would provide the confidence that would make worth while doing something with the business.

The view of those advising the registrar and the government was that working out an arrangement along those lines with CDIC was far and away the best alternative, not only for depositors, but for shareholders. However, CDIC, because of its view of its legislative mandate, and also because of its experience in this area, imposed conditions on the achievement of that objective.

If there were other people in Canada, including, for example, your clients, who are willing to back their judgement about the value of this company with real, live money to the extent necessary to enable the same arrangements to go forward, I would think that would be a very happy outcome from the point of view of CDIC and from the point of view of this government. So far, no one has come forward--

Mr. T. P. Reid: They have hardly had a chance.

Mr. Macdonald: I think they have had plenty of chance and they have still some time--

Mr. T. P. Reid: On Friday afternoon you wanted to hear from them by noon hour on Sunday. That hardly seems to me to be a fair and open tender.

Mr. Macdonald: We will come back to that, because that is a significant misreading of what happened and of what was outlined in Mr. Richardson's letter to the minister of January 28 and the accompanying material.

Let me now address two or three of the observations you made or the worries that you have. You are naturally and legitimately concerned about not knowing exactly what is going to happen. At the moment, nobody knows exactly what is going to happen. One of the problems is that at the end of the day, maybe nothing will happen.

You made two comments. First, you are worried about a distress sale, which I take to mean that you are worried about a sale that takes place under conditions that do not maximize the potential value of the assets in question. You are also suggesting that maybe the way in which to avoid that kind of situation would be to place the Crown business under new management. You used as an analogy the Sterling Trust/District Trust arrangement.

You have not had the benefit of this ghastly pile of information that the committee was given over the weekend, but if you look at it, if you look at Mr. Richardson's letter to the minister of January 28, if you look at the letter that was sent out on behalf of CDIC and the registrar by Mr. Richardson, some 10 days ago, to the seriously interested parties, I think you will see that what you are hoping for could very well turn out to be what will prove acceptable to one of the seriously interested parties and prove acceptable to CDIC and the Ontario government.

So it may very well be that, quite frankly, with all the good intentions in the world, you are misguided in feeling that this legislation represents a threat to your interests, if this legislation can be passed before these parties drop away, as they begin to wonder whether they will have a business that is worth taking on by the time they are in a position to make the arrangement with CDIC and the government. It may well be that this is really what you are hoping for, given the alternative that now remains of liquidation under the Winding-up Act. There is now no alternative to that.

The CDIC are not going to put up money under any other condition than that it gets transferred to new, responsible people, which is, as I take it, the same position you are in. The legal advice they have received is reflected in the legislation now before this committee and before the Legislature.

I think I am completely safe in saying that, if this legislation does not pass, CDIC will not be at the party, and there will only be liquidation, because there will be no money to

keep going, no money to even pay the first \$20,000; that will have to be got directly from CDIC, but the companies will no longer be in a position to do that.

You raised issues of mismatching. In case the committee is not aware of it, mismatching, in the financial intermediary business, basically means matching your terms, so that if you borrow on a one-year term, you lend on a one-year term, so that you don't get squeezed. That is not, and has not been, the issue here. There may be such an issue, but that has not been the issue the government has addressed. The issue that the government has addressed is the question of these mortgages.

You made one other observation that I think is applicable to portfolio management if you are dealing with your own money. That is that five per cent of your own money in a high-risk situation may be quite a reasonable proposition, but five per cent of the total assets of a trust company represents, in the case of Crown, more than its entire borrowing base. If that entire borrowing base is in high-risk assets, and particularly if those high-risk assets appear to have been developed in a way in which the people who initiated the arrangement as to the application of public deposit moneys through the mortgages were on the receiving end of those mortgages at the other end of the transaction, then this is not the same situation as would apply when you are talking about a diversified investment portfolio, using one's own money.

Mr. Biddell, in monetary terms, might be able to put some numbers flesh on what I was saying.

5:50 p.m.

Mr. Chairman: I think Mr. King has a comment to make or a response to make. Perhaps Mr. Biddell could--

Mr. Biddell: Yes, Mr. Chairman. I have been involved with the people in Woods Gordon who have, along with CDIC, made a very wide canvass of the market, if you will, of those companies that have the resources and the interest and the experience to take over something of the size and nature of Crown Trust.

I can assure Mr. King and the committee that the only deal--put "deal" in quotes--that is envisaged when and if this bill is passed is a counterpart to the District Trust deal. Under it, the affairs, assets and liabilities of Crown Trust will be put in the hands of another trust company, which will manage them for the benefit of the depositors and the shareholders of Crown Trust to the best of their ability. Woods Gordon and CDIC have worked very hard to find appropriate people to do this. That is exactly what is intended here.

Out of this, however, I am certain that there will be a sale to that company, at some stage, of the trust and estates business of Crown Trust.

Mr. Renwick: Is that the case in Sterling?

Mr. Biddell: They didn't have any business of that kind

of any consequence. The thing that made Crown Trust attractive to a number of people in the industry, notwithstanding that it is a very large thing to bite off, is that there is a value to the trust and estates business of Crown Trust Co., and that is what we have been trying very hard to preserve.

That is why CDIC and Woods Gordon and everyone sitting here has been able to interest a number of bidders to take over Crown Trust, initially on an agency basis so that they would manage its affairs, but then, over time, take for their own account the trust and estates business of Crown Trust Co. In the absence of any arrangement of that kind the trust and estates business of Crown Trust Co. would just disappear, it would go into a whole lot of different hands, and that is what is starting to happen right now.

Mr. Conway: But that seems to be--

Mr. Biddell: May I be allowed to finish?

Mr. Conway: That is important new information, I think.

Mr. Macdonald: It is all in the material you have.

Mr. Biddell: It is all in the material you have, sir, but I'm sorry, I will do my best to try to interpret for you and I will do my best to answer any questions you have.

That is what has been envisaged from the outset here and this is what we are trying to accomplish, in time to have a major institution take over Crown Trust while there is still something for it to take over that is attractive to it, and that is the trust and estates business. That is exactly what is proposed.

What we have to deliver to such an institution is not only the trust and estates business of Crown Trust, but the major part of their business, the financial intermediary business. We are going to turn over to them, if this bill is passed, a package of assets and liabilities which will equal one another, leaving behind the soft assets, which no institution wants and, necessarily, because there has to be a package in which the assets and liabilities are equal, to interest anyone to take it over, leaving behind a very large liability which CDIC is going to have to pick up, and which it will only be able to recover out of the recoveries on the soft assets.

However, if those soft assets do realize a significant amount, then CDIC, which will be there because it will have put up the money to see all the depositors paid in full, itself will get out and, if there is a very good recovery on the soft assets, that will then accrue to the preferred shareholders.

I am sure there will be some concern on the part of the preferred shareholders that, even if it happens, they are not going to be able to get hold of it and that they are going to be left to the mercies of Greymac Credit and Mr. Rosenberg. I assure you there is no intention that should happen, because I expect when this transaction goes through a liquidator will probably be appointed for Crown Trust Co. It will be the duty of the

liquidator to recover to the best advantage possible on the soft assets, first by reimbursing the CDIC--which has got in there to see that all the depositors have been paid in full--and then, if there can be a sufficient recovery, by seeing that the preferred shareholders get it next.

That's the program that is behind the bill you have before you today. If we cannot get this bill through while we still have a group out there that is prepared to take on this major chore, then the real value that such a person sees in taking on this chore--that is acquiring the trust and estates business of Crown Trust for its own account--will no longer be there. We are then just facing a liquidation.

In that liquidation it's the uninsured depositors who are going to lose. CDIC is going to have massive losses, and there won't be a hope in the world for any recovery by the preferred shareholders.

We have to get this bill through in order to let those plans proceed.

Mr. Macdonald: Mr. Chairman, I'm a little concerned. I heard Mr. Rae say that this is new information. It's difficult information to communicate, therefore, I ought to put a gloss on what Mr. Biddell has said.

I don't think Mr. Biddell, nor I, nor the government know precisely how long the agency part of the arrangement will continue and at precisely what point in time one or more parts of the assets will be moved over to whoever is the new person. I don't think we know that because that has not and cannot be finalized until there is indeed an actual named party ready to enter into this transaction, acceptable to both CDIC and the Ontario government.

The position of the government is that it cannot properly make a decision as to either the party with whom the arrangement should be entered into, or the precise details of the arrangements, until it has the power to do so. It would be foolhardy for it to make that decision today and not get the power for 10 days and find that the conditions had changed. The same is exactly the position of the CDIC board.

It's quite possible that Mr. Humphrys and Mr. Richardson today have a view as to the likely shape of the arrangement and who the likely purchaser will be, but I happen to have been told today--and this is difficult information to convey to the committee, not because it's not easy to state, but because it is not easy to state in a way which will carry the appropriate credibility. I will try, however.

In the course of a discussion with Mr. Humphrys today, he told me that one of the most serious of the parties had been in touch with him to say basically two things: one, that he shouldn't count on their being available very much longer, nor assume that they now will wish to review a proposal, in the light of what

may have happened to the company in the last 10 days. I find that a difficult thing--

Mr. Renwick: With great respect to Mr. Macdonald, I don't like to have that kind of pressure exerted for no reason.

Interjections.

Mr. Renwick: I want to make this point, and very clearly.

Mr. Chairman: You will have to get the floor with a point of order.

Mr. Renwick: I have a point of order, thank you. The point of order relates to whether the committee can deal with its business or not. We cannot deal with it if unnamed persons out there, who are not before the committee, are relayed through counsel to the minister to tell us that we are destroying the viability of the deal at every moment by simply trying to understand what the government is asking us.

If that's the case, let the government proceed by order in council and take its chances without legislative mandate. You cannot keep pressuring us every moment of this transaction to say that we in this committee are jeopardizing these transactions. That is the message we are getting.

Mr. Chairman: Mr. Renwick, that's a good place to end. I am not sure of the technical point of order. It's six o'clock.

Mr. Renwick: It's not technical, it's very substantive.

Mr. Chairman: We have two matters that I want to bring up.

The members who wish to speak are Spensieri, J. M. Johnson, Rae, Cunningham, Renwick, Conway and Brandt, in that order.

Next, can I point out that it was mentioned by Mr. Biddell and Mr. Macdonald that the committee members had in front of them various information. There are three bits of information that I have, but there may be a little confusion here.

Mr. Conway: Excuse me, Mr. Chairman, if I might say something. I just want to suggest, on behalf of my colleagues, that, given the urgency of this matter, we are prepared to sit here through the dinner hour and well into the evening to accommodate the concern of people who have something to tell us.

Mr. Chairman: The New Democratic Party?

Mr. Renwick: Let's not be ridiculous. If anyone thinks that this committee can operate effectively by sitting from 3 p.m. until 10 p.m. without a break, they're crazy. I simply say that. I don't mind breaking for 45 minutes, but that is absolute nonsense.

The other thing is that, out of respect for Mr. King and Mr.

Finley, we must ask them to be sure, if they can, to be with us when the committee resumes.

Mr. Chairman: In one hour, at 7 o'clock, that's the consensus, you will be here.

May I again finish that point? You will remember, from Friday afternoon, there was an undertaking by the minister and his assistants, to give a complete interim report from Woods Gordon, dated January 15, to each caucus. That is the first information source in which this information may be hidden.

Second is a series of documents which were given to the clerk at 1:50 p.m. today, and which certain members of each caucus have, but which others may not.

Third, there is a document--I believe a rather fat, large one--in each caucus office, only one for each caucus, which may also have information which certain parties are assuming the members have.

So I direct it to you that there may be three sources of information. Please hunt them down.

Mr. King: Mr. Chairman, may I have the opportunity to respond to Mr. Macdonald?

Mr. Chairman: Yes.

We are now adjourning until 7 o'clock.

The committee recessed at 6:04 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CROWN TRUST COMPANY ACT

MONDAY, JANUARY 31, 1983

Evening sitting

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatnam-Kent PC)

Substitutions:

Barlow, W. W. (Cambridge PC) for Mr. Watson
Johnson, J. M. (Wellington-Dufferin-Peel PC) for Mr. Eves

Also taking part:

Conway, S. G. (Renfrew North L)
Cunningham, E. G. (Wentworth North L)
Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
McClellan, R. A. (Bellwoods NDP)
Riddell, J. K. (Huron-Middlesex L)
Roy, A. J. (Ottawa East L)
Wrye, W. M. (Windsor-Sandwich L)

Clerk: Arnott, D.

Assisting the committee:

Revell, D. L., Legislative Counsel

From the Ministry of Consumer and Commercial Relations:

Biddell, J., Adviser
Macdonald, W. A., Adviser

Witnesses:

On behalf of preferred shareholders:

Finley, J. R.; Smith, Lyons, Torrance, Stevenson and Mayer
King, C. W.; Hughes, King and Co. Ltd.

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Monday, January 31, 1983

The committee resumed at 7:18 p.m. in room 151.

CROWN TRUST COMPANY ACT
(continued)

Resuming consideration of Bill 215, An Act respecting Crown Trust Company.

Mr. Chairman: Gentlemen, we have a quorum in place and I call the meeting to order.

Mr. Renwick: Does the minister have an opening statement?

Hon. Mr. Elgie: No, I am privileged to be here with the former representative of the law firm of Borden, Elliot, and the member for Kitchener (Mr. Breithaupt), who performed great services in the world of corporate law. That is my opening statement.

Mr. Chairman: Did Mr. King wish to respond? Is that in order from where we left off?

Mr. Elston: Perhaps we could have the latest rendition of the new deal that is coming out for this session. We seem to have sort of a continuing--

Mr. Chairman: Perhaps we could hear from Mr. King first and then he might suggest one.

Mr. King: Thank you. There seems to be a little switch in the deal, and I sense some give and take here. Perhaps the members of the committee do not see it that way.

What I am confused with in Mr. Macdonald's and Mr. Biddell's statements is, first, the question of whether the assets of this company were or were not matched. I think that is very germane to the condition of the company.

Second, the preferred shareholders, as I understand it, are being left to flounder with the ship and the so-called soft assets. There are minimal hard assets being placed with it. I think the debt ratio is \$90 million in debt to \$125 million in assets. That, of course, is what we are trying to avoid.

What is not clear to me is whether the Canada Deposit Insurance Corp. is in fact going to support the asset, or the positive, or what have you, in the continuing company it is proposed to turn back to Mr. Rosenberg?

Mr. Macdonald: Say that again. What was the question?

Mr. King: Mr. Macdonald, what I am confused with is in your statement you were saying, or giving me the impression, that the preferred shareholders are somehow going with the hard assets. I am impressed with that, of course, but as I understand it the

company is being turned back to Mr. Rosenberg. If that is so I presume the preferred shareholders go with the company and are not being peeled out. Is that not the case?

Mr. Macdonald: I think maybe it has been misleading, unintentionally, to distinguish between so-called hard assets and so-called soft assets in terms of your particular concerns.

Obviously, all the assets of the company are there to be realized, to the extent they can be, under the most advantageous conditions they can be. What is finally realized will, as I think Mr. Biddell and I have said, go in the first instance to cover whatever liability CDIC has by reason of having paid off depositors with their own funds.

Mr. King: You have said that the value is 80 cents per dollar.

Mr. Macdonald: I did not say that. What I believe was said in the Woods Gordon report was that if there was a liquidation, one might hope to get something like 80 cents on the dollar, which would, of course, mean nothing for common shareholders, nothing for preferred shareholders, substantial losses to uninsured depositors, who are a fairly large component of Crown Trust Co., and increased losses to CDIC.

That is the reason for the alternative of attempting to avoid liquidation and to find someone who is acceptable and responsible and capable to take on the assets and business of Crown Trust Co., and if you like, to realize on those assets under more favourable conditions--and I think the estimate is that you reduce the potential loss by quite a number of cents on the dollar.

Obviously, if all of the assets should realize 100 cents on the dollar, then all of the depositors are paid, which is what CDIC is prepared to guarantee if this arrangement goes forward.

Mr. King: But they have guaranteed it anyway.

Mr. Macdonald: No, they have not guaranteed uninsured depositors and they will not guarantee them.

Mr. King: But there are 168 depositors of over \$60,000.

Mr. Macdonald: Yes, but they are very substantial sums, into the hundreds of millions of dollars. So, while the numbers are small in terms of the number of people who will be hurt, the amounts are substantial.

They will not put up money for uninsured depositors, because under their legislation they are not entitled to put up that money unless they are able to satisfy themselves as businessmen that by putting up money for uninsured depositors the result will be to increase the recovery on the assets by an amount which is greater than what they lose by undertaking to guarantee the uninsured depositors. That is how they see their mandate, the restrictions under their legislation.

As we have attempted to say, maybe not very successfully, the conditions which they have imposed for doing that--and there is no question about these conditions. Mr. Biddell and I know a good deal about them because we would have liked them to be less stringent. We understand why. We are not quarrelling with their view of their legislative mandate, but we were coming from the other side.

They are saying that they will only step up to the plate and take the risk of putting out more money to ensure that all depositors, insured and uninsured, are paid in full--not only paid in full, but paid when it is due; not paid a year from now, or three years from now, when there can be some realization of the assets--they will only do that if they can conclude as businessmen that they will lose less by doing that than by simply forgetting the uninsured depositors, for whom they have no statutory obligation, and sticking to their mandate of paying only the insured depositors.

Mr. King: I understand what you are saying. I think you are misunderstanding me.

Are you saying that you are taking the hard assets and moving out here under some arrangement with the CIDC and the company is being returned back to Mr. Rosenberg?

Mr. Macdonald: Our firm was not involved in any of the detailed discussions with any of the would-be buyers, because of the fact that I am a director of Victoria and Grey Trust Co. and we thought that there was no way that we could know anything about the details. So there may be some differences between the proposals from one company or another.

As I understand it, the framework within which those proposals was considered by Mr. Richardson and Mr. Humphrys, and which will be the basis of their recommendations to Ontario on the one hand and the CDIC board on the other, is that you will basically be dealing in one sense with all the assets in the company. For a period, the arrangement is likely to be, with respect to most of them, an agency arrangement, flowing at some point, depending on the particular arrangement worked out, into a sale, most particularly of the estate, trust and agency.

The point to realize is that Crown Trust Co. will continue in the hands of the registrar, as it is now, until there is no longer any trust business being done by the new owner in the name of Crown Trust Co., until it is all over into their hands. No one can predict exactly how long that will take at the moment.

That process is designed to realize on all the assets, from A to Z; from the so-called hard assets all the way over to the softest of the soft, under the best of conditions. That will produce some net amount of assets relative to the liabilities.

There will essentially be three liabilities. There will be the liabilities to the depositors, and CDIC is saying that they will stand behind all of those. If there are not enough assets, they will stand in the shoes of the depositors having paid them. They will also ensure that the trade creditors are paid in full.

7:30 p.m.

At that point, they will probably be standing with some net liability. There will still be assets being realized in this process. At this time, who knows what assets there will be?

Then we are in a situation where it all depends upon how much can be realized on those assets. If enough can be realized, CDIC, standing in the shoes of the depositors who have been paid, will be paid off. If there are still more, that will be available to the preferred shareholders. If there are still more, that will be available to the common shareholders.

I think this is as fair as one can be, because no one can tell precisely what will happen six months, a year, 18 months, two years down the road. The thinking at the moment is that the registrar will be there until there is nothing more being done in the name of the company as it is. At the moment, the thinking is that the transition will be to a liquidator, not back to shareholders.

You will appreciate that there may be an awful lot happen between now and then, in relation to the present common shareholders, in relation to what has happened since they took control of the company.

Where that will all unwind itself is more likely to be in the courts than in the Legislature. The judgement you have to think about is the judgement the government has to think about. That is, is it better to allow liquidation, with the very strong belief that that would produce substantial losses for uninsured depositors and for CDIC over what they would otherwise pay, and also ensure that there was nothing for shareholders, or is it better to go with a procedure that is aimed at avoiding liquidation, at preserving the business, at maximizing in an orderly way what can be realized?

It has been the consistent position of the government and the government's agents that there is to be no fire sale. Why would CDIC want a fire sale? They do not want to increase their losses. Their losses are going to be significant, unless they are an awful lot luckier than the most informed people who have looked at the situation believe they are going to be. They have no interest in increasing those losses and having to pass that on to the rest of the financial community.

Your judgement, and ultimately the judgement of this committee and of the Legislature, is going to have to be: is this the best route for, first, protecting depositors who have the prior claim; protecting the CDIC, which is public moneys standing in the shoes of the depositors whom they have paid off; and, third, for the shareholders. Our judgement, which may not be yours, is that this is the procedure that holds out the most hope for everybody.

Mr. King: Why do you feel that that procedure is superior to the management committee of the owners, of the preferred shareholders?

Mr. Macdonald: You made an observation which I did not comment on, but I think perhaps one ought to. You wondered whether the preferred shareholders shouldn't be treated more closely to depositors than to the common shareholders. One has to say two things about that.

First, the preferred shares form part of the borrowing base, on which deposits are attracted. It would be somewhat inconsistent to allow that kind of capital to form part of the borrowing base aimed at protecting depositors, and then turn around and protect them as though they were depositors.

The second thing, of course, is that there would be no chance in the world that CDIC, which is already limited legislatively as to what it can do for depositors, could go beyond that and start protecting shareholders. I think the short answer to your suggestion about a management committee of the preferred shareholders is that if we proposed that to CDIC tomorrow morning, they would tell us to liquidate Crown Trust tomorrow morning. There is no way that they are prepared to have Crown Trust continue in business except in the hands of new people who they can believe will work this thing out to what they regard as the best effect, obviously having to have the concurrence of the province.

However valid or invalid your proposal might otherwise be, the people with the money at stake in this won't buy that kind of a proposal.

Mr. Spensieri: Mr. King, quite apart from the specific brief which you now hold on behalf of the preferred shareholders, you have been, I believe, special adviser to Mr. Thompson and you have a general knowledge of the trade industry. I would like to ask you, if I may, some questions which may not necessarily relate to preferred shareholders. I would like to zero in a little bit on the question of this CDIC involvement.

We heard the day that Bill 215 was tabled before the Legislature that as a guesstimate CDIC may have been required to inject \$60 million at that point. When we met with Mr. Biddell we heard that figure may be as much as \$150 million, and we are now hearing press reports that the infusion will be in the \$200 million range. What, sir, is the pro tem type of infusion that will be required? To help us understand this bill, in your opinion, what will be required to get this thing running?

Mr. King: As far as the infusion is concerned, I would come back to saying if the assets are matched there shouldn't be any infusion necessary in the sense of satisfying obligations. As a multiplier base, that may be low, but I think that's still very subjective. We don't know. The government people have felt, or have been advised, that there was a shortfall there. I don't know, with the information that is before us, whether that's acceptable or not in the sense that presumably the people who did this transaction had valuations done too. There is a subjective aspect to it.

I don't see why, under a management committee, if the assets are matched, there should be any liability on CDIC. I grant you that the equity multiplier base may or may not be insufficient. Does that answer your question?

Mr. Spensieri: If I could just continue, regardless of what the figure is, whether it's \$60 million or \$200 million, do you have any reason to believe that CDIC would not be as forthcoming with any other group, such as a management committee of the preferred shareholders, as it is willing to be with Mr. Biddell?

Mr. King: That's my point. I think it's an excellent point. Why wouldn't they be? If we have the government's blessing and the support of the CDIC, I'm sure the holders of preferred shares could put up equally good management and it would be managed in the private sector.

The problem I have is that I can't believe, without representations and warranties, why anybody would put up \$50 million, if there is such a shortfall. I don't know whether these other people or companies have had more information given to them than you have as a member of the Legislature. Certainly it would be imprudent, if it is a regulated company, to put up that money without representations and warranties. That's just spreading the evil, so to speak. I think it's a question of confining it here, rather than spreading it around.

Mr. Spensieri: If I could continue, we have heard Mr. Biddell indicate that of the available suitors at the present time as we know them, in order for them to carry on the trust and estates business and the various financial intermediary business, they would have to either be or very quickly constitute themselves into a trust company in order to carry out those fiduciary obligations. Do you have any specific reason to indicate or to believe that your management committee, for instance, could not just as easily constitute itself into a trust company with government blessing and sanction?

7:40 p.m.

Mr. King: The answer to your question is yes, we believe that the competence of the day-to-day staff there is very proficient and experienced, just as much so as in any other trust company in the fiduciary operations. I think the answer is, absolutely.

Mr. Spensieri: Your answer seems to indicate, coming from one in your position of having a knowledge of the trust industry, a rift between the conventional wisdom that we are being told by the blue chippers--Mr. Biddell, Mr. Thompson and the blue chip committee--and what you, whom I would consider, I guess, equally blue chip, are saying. If there is that rift, for instance, in the area of the contemplated agency arrangement do you see that the agency arrangement which Mr. Biddell has just indicated could be carried on perhaps indefinitely so that we

wouldn't have to rush headlong into a sale? How do you see your group's proposed course of conduct during that interim agency situation as opposed to the government's proposed course of conduct? Do you see any time frame differences there?

Mr. King: What Dr. Elgie's advice has indicated to me is that they are not contemplating a fire sale. Our proposal is certainly not proposing a fire sale, but probably a five- or a 10-year reconstruction that would realize all the assets and see that the preferred shares are serviced with dividends and so forth and the sinking fund, which is a requirement, is carried out. What has changed here to some extent from when we first started this afternoon is that we had the impression that soft assets will be peeled out and are going to be left with the company. When I say the company, that is the preferred shareholders. Bear in mind that our preferred shareholders put up half the equity of this company. As at October 7, out of the \$40 million, we had some \$20 million in there. That input created the hard assets.

Now they are saying that we're going to be sort of sloughed off and be treated in such a way that if there is anything left at the end we will get it, i.e., the so-called soft assets. If there is any realization on that, we will get it. I find that morally improper.

Mr. Macdonald: Mr. King, you know you don't really find it legally improper. After all, the company is a single entity with a number of assets of varying degrees of value and with liabilities primarily to public depositors. You know and I know and everybody knows that shareholders do come behind depositors and trade creditors and any other creditors. To suggest that somehow or other there is a moral element in your being in the legal position that you're in really isn't accurate.

Mr. King: The common shareholders have already walked off with \$62 a share.

Mr. Spensieri: This isn't the Business Corporations Act we're talking about here.

Mr. King: We are talking about a unique situation under the Loan and Trust Corporations Act. Up until 1971, preferred investment in trust companies wasn't permitted.

Interjection: It was 1969.

Mr. Macdonald: The problem is that your clients made the investment. It may not have been wise, but they did. Certainly their legal position is clear enough, that they follow after depositors and creditors.

Mr. Finley: If I might respond on behalf of Mr. King to the comments of Mr. Macdonald, these preferred shareholders invested in this company in 1977 when the company was composed of a totally different complexion. Their investment decision was made at that point. Because it was a loan and trust corporation, the provisions at the time that the common shareholders sold out and

the preferred shareholders did not sell out were not beneficial to the preferred shareholders; they were, in a sense, locked in. The legislation didn't give them the flexibility that the common shareholders got. In addition, they got involved in an industry that is supposedly legislated.

Mr. Macdonald: Excuse me, I don't understand that statement. What responsibility does the common shareholder have that the--

Mr. Finley: The common shareholders, under the Loan and Trust Corporations Act, were required to be purchased out to the extent of at least 75 per cent, with the result that once that 75 per cent offer was made they had to make a follow-up offer under the Securities Act and every common shareholder had a chance. However, that legislation gave no such protection to the preferred shareholders because of its ambiguity or because it was a straight oversight, but there was no such protection granted to the preferred shareholders.

Mr. Rosenberg was required to make an offer and purchase up to 75 per cent of the common shares and, once he did, the follow-up offer provisions of the Securities Act required him to make it to the rest of the common shareholders. We did not have that protection because of the legislation and its inadequacies, I would suggest. We were in a totally different situation. We are in an industry that is supposedly regulated. We are supposed to be protected to some degree because of the government's overseeing of this industry. It was in the prospectus when these people invested.

Mr. Macdonald: I just make two observations. First, my recollection is that the follow-up offer was not in existence for common shareholders in 1977 and, second, unlike common shareholders--

Interjection.

Mr. Macdonald: No, it was not in existence. I remember being involved in--

Mr. Finley: It may have been a common law.

Mr. Macdonald: Nobody thought it was; nobody ever applied it.

Mr. Finley: Perhaps you and I didn't.

Mr. Macdonald: Nobody that I ever heard of did because that right is unique in this province, in any jurisdiction that I am aware of.

The second thing is that, unlike common shares which have no special conditions, preferred shareholders are free to exact particular conditions in their shares and, if they had been farsighted enough, as you claim the government ought to have been, to foresee this kind of thing, they could have provided for those kinds of conditions to protect themselves in the event of a change of control. In fact, they didn't.

Mr. Conway: Did Mr. Biddell have something he wanted to say?

Mr. Biddell: Yes. I really would like to, because there are questions being asked of Mr. King concerning the financial position of Crown Trust which he, understandably, does not have the ability to answer. He doesn't have a copy of the statement in front of him. He doesn't have a copy--at least, he didn't have a short time ago--of the Woods Gordon report where this is clearly set out.

He asks whether there is a mismatch here and he says if there isn't a mismatch between the assets and liabilities and their respective maturities, then no money will be needed. In fact, there is a very large mismatch.

On page 8 of the Woods Gordon report there is a balance sheet of Crown Trust at January 7 and that shows that the company had \$90 million of cash and liquid bonds, and that is liquid cash that was available to meet the liabilities that were maturing. There would be something coming in on the mortgages, but in the face of that, they had \$96 million worth of demand deposits immediately due and \$346 million of short-term maturing GICs. There is a great big mismatch.

In the transaction that is contemplated, if this bill can be put through, CDIC is going to have to loan a great deal of money to the company that works out Crown Trust as working capital in order to permit those depositors to be paid as their deposits mature. That is the \$150 million to \$200 million that is being talked about. That does not suggest that CDIC is going to lose that kind of money.

On page 24 of the report there is an estimate of the nature and the magnitude of the losses that CDIC may sustain. If you are interested in an analysis of that situation, the potential for loss to CDIC and the potential for recovery to the preferred shareholders, I have a page-and-a-half statement here that could be distributed which keys into the Woods, Gordon report and will show you what we are talking about here.

Mr. Spensieri: Just following up on this point, are you sure that there is nothing to suggest as of yet, Mr. Biddell, that the CDIC will not be equally forthcoming and equally generous in its fund allocation on an interim basis to a body other than the suitors to which you have referred?

For instance, have they ruled out the possibility that they would make the funds equally available to a committee of the preferred shareholders, who would constitute themselves into a trust company and thereby, I suppose, qualify for the same largess by the CDIC as your group would?

Mr. Macdonald: Which group?

Mr. Spensieri: The suitor group, the group of proposed suitors.

Mr. Biddell: Unlike the other people sitting at this table, I happen to have been involved in trying to find people who would step in and take this thing over on the basis, as I have described it, a District Trust deal, a workout. That was the only thing which CDIC was prepared to look at--and quite properly, so far as they are concerned.

That has been done. I believe that there are people who are prepared to do that if we can get this legislation through. But CDIC is certainly not prepared to put up that kind of money, \$150 million to \$200 million, to an interim committee which would be running this company, because it is well aware that if that is the way this thing goes, then the trust and estates business of Crown Trust will just disappear and there will be no going concern sale and very soon we would have a liquidation.

So CDIC is not going to put up that kind of money to an interim committee, no matter what its auspices, to take over Crown Trust and run it.

Mr. Spensieri: I find that so incredibly hard to believe, when you mentioned earlier that of the potential suitors for the Crown Trust valuable assets, some may not now be running a trust company business; some may be, in fact, involved in other areas of endeavour, such as even bill collectors, for all we know.

Mr. Biddell: No, no.

Mr. Spensieri: If it is fair to say that whoever gets it who is not a trust company, must, in very short order, qualify to become a trust company, what makes such a presently non-trust-company acquiror or donee, whatever you want to call them, different from a committee of shareholders equally qualified?

Mr. Biddell: What distinguishes them is that they must have not only the experience and resources to carry on a business of this magnitude, they must be people who are otherwise acceptable as well, and it will take, I would say, somewhere between \$50 million and \$100 million of equity that they will have to inject themselves to take this thing over.

We made it available to people who did not have a trust company; if they had that sort of resource that they were prepared to commit to this thing, they qualify. We looked at some of them and are still looking at some of them, but that is a long way different from a committee of preferred shareholders, or anyone else, who would take over Crown, inject no equity into it whatsoever, and then look to CDIC to put up a couple of hundred million in order to keep them in place.

CDIC is just not prepared to consider that under any circumstances. I know; I fought with them for two weeks.

Mr. Spensieri: Mr. Chairman, I have one concluding question of Mr. King and it has to do with his view of the minister's statement earlier to the effect that when we are

dealing with the concept of valuation, and valuation for loan and trust corporations purposes, any revelations of Mr. Player and, for sure, any revelations of Mr. Markle--as we saw, because we didn't want him to speak--could have nothing to do with the issue at all.

I would like to ask Mr. King this. I have a situation in my own riding which developed about a year ago and it involves an office building; it is known as 1315 Finch Avenue West--the ministry staff may be aware of it. This was a commercial building which I would like to use as an example to get your views, really, on the difference of approach between what you seem to be indicating and what the staff seems to be indicating.

This building was worth approximately \$1.4 million; that is what a willing purchaser would have paid for it. Some time during the course of this year an acquiror came along who decided that he would pay \$2.5 million for this building. As part of the package, he agreed that when the financing was carried out through one of these three trust companies a large sum of money would be set aside to cover the cost of the mortgage, the shortfall. That money was somehow intertwined with the real estate, so that the real estate and the chunk of money on hand became part and parcel of each other, if you wish.

In your opinion, in a situation such as that, would a prudent lender, such as the registrar tries to approximate in his judgements, still consider that building to be worth \$1.4 million, or would he consider it to be worth something well in excess of that, given the fact that it is now intertwined with a chunk of money allocated to it?

Your views on this question are very critical because I think it determines later events.

Hon. Mr. Elgie: Is that the Oklahoma deal you talked about in the Legislature?

Mr. Spensieri: It is one of ones that took place over the course of two years.

Hon. Mr. Elgie: But it is what you were referring to? It is an Oklahoma deal?

Mr. Spensieri: Because they were so small, you did not pick them out, and it took a gargantuan and really momentous deal involving 14,000 homes before you would twig to it.

Hon. Mr. Elgie: Aggressive investment schemes and policies.

Mr. Spensieri: I am telling you, Mr. Minister, it sets the pattern, as my leader was saying on Friday, and it is a pattern which was not noticed by any of your regulatory people and you only noticed it the moment that it became of such a mammoth nature.

That is what I am trying to get at, because this is very critical. For valuation purposes, do you consider, and perhaps you would care to answer it after Mr. King does, that the intrinsic security value of that building changed as a result of that financial arrangement?

Mr. King: Mr. Chairman, I am not a real estate expert, but this concept of financing is based on what they call a present-value situation. What it boils down to is a guarantee of a future market price. I think part of this problem really stems from the fact of rent controls, where until recently 90 per cent of financing costs can be passed on. Is this a commercial building?

Mr. Spensieri: It is a commercial office building. It is called University House and it sits in North York.

Mr. King: Of course, rent controls do not apply to that. I must say in my own investment I would not approve of a transaction like that, frankly, but I know it has been in vogue for some time. It is based on the expectation that property values will go up and rents, of course, will go up.

It would be interesting to examine the leases that are applicable to that building. Are there built-in rent increases in that to provide the cash flow in time hence to warrant that type of multiplier? Those are the areas that one would have to examine.

Mr. Spensieri: Let me just follow that through. If Mr. Player's revelation was to the extent that the \$15 million that was unaccounted for on closing, that was left as a trust fund, and if the \$100-million-odd in the Cayman bank were also to be allocated for mortgage servicing, would you say that by present trends in real estate valuations, the Cadillac Fairview buildings, as they now are, coupled with such a large chunk of funds, \$150 million let us say, to support mortgage payments, would intrinsically change the value of the buildings?

Mr. King: Well, it is good-faith money and if one has access to that money and the term of the present value is five or so years at eight per cent you would double the deposit, so that may make up the difference between the \$1.4 million and in your case the \$2.5 million. I would have to examine the leases, but it is possible; it could be. What is speculative is that real estate values will go up. My own opinion is that I do not think it is a prudent investment for a trust company.

Mr. Spensieri: I just wonder if the minister could comment whether for the purposes of the Loan and Trust Corporations Act and for determining the lending base such a twinning of reserves of cash with the value of the real estate could alter his view on whether this legislation is necessary at all.

Mr. Macdonald: I think the short answer is no. Let me give you a rather different example.

8 p.m.

If you had a mortgage on a piece of property that on its own was worth that \$300 million we have been talking about, and if you had the Royal Bank covenant, whose present-day value was \$200 million, then if you had a mortgage of the \$375 million--that is the first and second, the \$152 million amount or whatever it is that got us up to \$375--you would then have in combination probably, in substance if not technically, an investment that qualified under the Loan and Trust Corporations Act. Let me explain why.

It would not qualify because the \$300-million value of the real estate had changed, because the value of the real estate is not dependent upon the covenant of the borrower. The value of the real estate is dependent upon what you could get if the borrower doesn't pay and you have to step back into the market and sell it.

The Royal Bank covenant, being of a chartered bank of Canada, would probably qualify independently as a qualified investment, either as a deposit or a note or a debenture or whatever its nature might be perceived to be.

Again, in the present situation we cannot find any money in the numbered companies, and even if we could find money in the numbered companies, the covenants of numbered companies are not normally qualified investments for trust companies.

Mr. Spensieri: I appreciate that but is not hard, cold cash on deposit better than the Royal Bank covenant?

Mr. Macdonald: If you have hard cash on deposit, you mean if the \$200 million was on deposit?

Mr. Spensieri: Yes.

Mr. Macdonald: That would be a different world than the one we have.

Mr. Spensieri: If they can prove to you that it is that world, will you be prepared to--

Mr. Macdonald: They cannot prove that that is the world up until now, because quite clearly there has not been \$200 million on deposit up until now. If there was \$200 million, it would be a new world tomorrow and we would have to look at it. We might not need this legislation therefore.

Mr. J. M. Johnson: Mr. King, I am confused with these \$100 millions. I have a hard time with thousands, let alone millions. I am at a loss to understand why a company like Cadillac Fairview would sell buildings worth, in their estimation, \$270 million, to have someone else determine within a short period of time that they are worth \$500 million.

I would assume if I were a shareholder of Cadillac I would be quite concerned at them selling it basically at just a shade over half the price within the six weeks or whatever the period of time. What was your feeling, as a shareholder of the Crown group, when this transpired? Did you feel that they had indeed made an excellent investment?

Mr. King: Crown did not make an investment. It was the lender that provided mortgages for the transaction. The buyer was presumably the king of Saudi Arabia. Crown provided mortgages on that situation and, as Mr. Macdonald and the minister have pointed out, it boils down to the 75 per cent of value. I understand the people who advanced the money, the mortgage companies, had three independent valuations too that justified the transaction. There were major legal firms in this city that were involved in the documentation of that transaction. To me there is some doubt--

Mr. Macdonald: With all due respect to you, Mr. King, you are starting to depart from the facts really. You do not really know what there is in the files of Crown Trust Co. You do not really know what lawyers said or did not say. You do not really know what documents were or were not obtained and you do not really know what those valuations look like. You are giving evidence but you do not really know. The closest you can get to finding out tonight would be to read what the Woods Gordon report has to say about the quality of legal documentation from "the finest legal firms in the city of Toronto."

Mr. King: Mr. Macdonald, based on that, you are quite right, but--

Mr. Macdonald: No, but I think it is important. The committee is asking you questions, I think in many ways unfairly to you. You might, quite frankly, wisely not answer some of the questions because you really do not have any direct evidence on which to form a judgement and you are being in some ways sucked in, if I may say so.

Interjections.

Mr. King: If I have inadvertently, I do apologize. I will withdraw that question if it would--

Mr. Macdonald: It was a good question. It was the answer--

Mr. Chairman: Mr. Rae. He is not here. Mr. Cunningham.

Mr. Cunningham: I defer.

Mr. Chairman: Mr. Renwick.

Mr. Renwick: I want to speak to a limited aspect of the problem raised by the preference shares of the company. We shall have plenty of time to come back to the Woods Gordon report and the nature of the transaction envisaged by Bill 215.

I really want to speak to the minister. I would also be quite interested in speaking to the Tory members on the committee about the preference shareholders, and I recognize the framework within which one draws distinctions between preference shares and deposits and guaranteed investment certificates, all of those ramifications, and where the preference shares would rank on liquidation. I understand all that.

As I understand it, the question which is before the committee is: In addition to the protection of the depositors and the guaranteed investment certificate holders and the trade creditors and others that are going to be protected under the transaction, we are being asked whether or not there is legitimacy to move to protect the preference shareholders.

I recognize quite clearly that preference shares are not debt obligations. I am not arguing about that. I also recognize quite clearly, on a very limited reading of CDIC, that there is no way in which CDIC can come up to protect the preferred shareholders. That is not within their particular mandate.

I would say to the minister, however, that if you or I or my Conservative friends on the committee were sitting in 1977 and were looking at the prospectus related to the series A preference shares--For example, say if one were reasonably knowledgeable about what one was doing with his money and understood what it was about, one would note, for example, that Campbell, Godfrey and Lewtas were acting for the company, Fasken and Calvin were acting for the underwriters in the transaction; one would note in bold-faced type on the front of it: "In the opinion of counsel, the series A preference shares will qualify for investment under the Canadian and British Insurance Companies Act and certain other statutes as stated under 'qualification for investment.'"

8:10 p.m.

Then when you turned over the page and you found Qualification for Investment: "In the opinion of counsel the series A preference shares will be investments (a) in which the Canadian and British Insurance Companies Act Canada states that a company registered under part III thereof may invest its funds; (b) which the Foreign Insurance Companies Act Canada states are assets which may be vested in trust," etc.; "(c) in which the funds of a pension plan registered under the Pension Benefits Standards Act Canada may be invested" etc.; "(d) in which the Insurance Act Ontario states that an insurer, as defined in section" so-and-so "may invest its funds;" (e) in which the funds of a pension plan registered under the Pension Benefits Act Ontario may be invested" etc., you would begin to think that you were in the realm of the kind of an investment in which one could not be accused of speculating if one had invested one's money.

Then you read about the company, the consolidated capitalization and deposits, the business of the company, without my taking up the time to do it, the details with respect to mortgage lending services which were set out in the prospectus, deposit-taking services, the points which are raised in the course of that. Then you came to the following under that heading, including references to Canada Deposit Insurance Corp., and so on: "Under applicable Ontario legislation, the company is limited in the amount of deposits it may accept from the public to a maximum of \$296 million, subject to increase by an amount not exceeding the amount by which the liquid assets held by the company in its own right and for guaranteed investments exceed 20 per cent of all savings deposits coming due within 100 days."

Then you stumbled through that gobbledegook and got to this: "February 28, 1977: The company has accepted deposits from the public which amounted to approximately \$292 million. The company is now approaching its statutory limit; however the proceeds of this issue will enable it to accept a further \$132 million of deposits beyond the amount held at February 28, 1977, thereby allowing for continued growth in its deposit-taking services."

Then you continued on through the prospectus, Estates, Trusts and Agency Services, and came to a heading called, Government Regulation, and in bold type saw the Loan and Trust Corporations Act Ontario: "The company is registered as a trust company under the Loan and Trust Corporations Act Ontario, and its operations are subject to inspection and supervision by the registrar under the act."

Then you havda reference to the multiple which can be approved by the Lieutenant Governor in Council; you had a statement about the kind of assets in which the company may invest its funds; you had a statement about other legislation applicable to the operations of the company, including the CDIC Act and the Quebec Deposit Insurance Act. You then had detail of the particulars of the preference shares, which are not unusual. Then you had the use of the proceeds of your money: "The estimated net proceeds, amounting to \$5 million plus" etc. and so on "will increase the shareholders' equity and will be added to the general funds of the company for investment in authorized mortgages and marketable securities. As a result the company will be permitted to increase the amount they may accept on deposit."

If you were to have invested your money in that type of preference snare, recognizing all of the formal distinctions that we are talking about, I find it difficult not to believe, in respect of the integrity of Crown Trust Co., which is basically what we are talking about, that there is not some obligation for the minister and his advisers to come up with a method of providing protection for the preferred shareholders similar to the kind of protection that they are providing for the depositors, both up to \$20,000 and maybe up to \$60,000 and maybe in excess of \$60,000.

I think the same kind of position could be put with respect to the series B preference shares, although they were used for the purpose of the company acquiring control of Canadian Realty Investors, which was done on January 21, 1982, when there had been one change in the ownership or the control of Crown Trust Co.

I do not put it on the basis of legality and I certainly do not put it on the basis of morality, but if over and above the insured amounts of depositors and holders of guaranteed investment certificates, and those persons are going to be protected, surely it is not beyond the wits of the ministry and its advisers to say that the integrity of this transaction that we are asking the Legislature to approve includes the preference shareholders and we will work out a method by which the integrity extends to protect not only the depositors, but also the preference shareholders.

I have no problem with the logical difference between the concept of a share and the concept of a debt obligation. But I have extreme difficulty in asking myself how the government of Ontario can say that they will draw the line at the depositors or the people who hold debt obligations, but they will not extend the protection to those who, in good faith, invested in the preference shares of Crown Trust Co. in the light of what has happened to this company.

That is a fundamental question for the committee. I do not think it is adequate to leave it until down the road at some point in the distance, one year, two years, four years, five years, or whatever the period may be--and I gather it is speculative--to find out whether in a residual sense there will be moneys available for that kind of payout to those preference shareholders.

When you look right through the problem that is before the committee, without passing value judgements on all of the other aspects of the problem, it does seem that the preference shareholders have a very strong claim to be brought under the umbrella of protection which the minister is prepared to extend to the depositors.

Hon. Mr. Elgie: You talk about preserving the integrity of Crown Trust. Our position is that the integrity of Crown Trust was drastically altered in an exceedingly short period of time, to which the government reacted very quickly and appropriately. Really, what you are saying is that no matter what, let us have an investment protection fund and let us pay it out of public money.

Mr. Renwick: No, I am not. You are jumping to a conclusion.

Hon. Mr. Elgie: Well, you are. None of the statements you made suggested there was any guarantee that there were no investment risks taken. With all those things taken together, including the fact that the government is making every effort to preserve whatever rights are possible to the preferred shareholders and the common shareholders, I cannot agree with you.

Mr. Renwick: Your allegation--and I emphasize your allegation--is that in the short period of time in which this company created the situation which made you move into that company, you are saying that because those matters took place the preference shareholders have to bear that cost as well. That is what you are saying to us. In other words, you stated that on January 7 you and your colleagues were of the opinion that there existed a practice or state of affairs within Crown Trust that was or might be prejudicial to the public interests or to the interests of the corporation's depositors, creditors or shareholders."

8:20 p.m.

You really did not mean that, did you? You really did not care about the shareholders. The statement should have said that there existed a practice or state of affairs within Crown Trust, that was or might be prejudicial to the public interest or the interests of the corporations's depositors and creditors.

You should never have mentioned the shareholders if you were not going to extend the protection to them, however you did it. I find it extremely difficult to make the distinction between the public moneys of your government and the public moneys of CDIC. I find that very difficult. They are public moneys that are going to be used.

Hon. Mr. Elgie: I am not dedicated to protecting investments even though we are taking steps that are called by others here unusual and unprecedented in order to do just that, to offer options for shareholders that would not have been there under any other route.

Mr. Renwick: Then you should correct your statements. You should issue a correcting statement to say that it is not your intention to protect the preferred shareholders of Crown Trust Co.

Mr. Macdonald: I will just make one observation on what Mr. Renwick has said. There would be merit in making the statement. A situation does exist which might be prejudicial to depositors and shareholders. This has been eminently established. The fact that these gentlemen are here indicates that it was an accurate statement of fact that it may be prejudicial to shareholders. What one is able to do about the situation is a different issue.

Certainly, one can take the view that one ought to make public moneys available to preferred shareholders, whether to these preferred shareholders alone or preferred shareholders in all trust companies. That's a point of view.

Mr. Renwick: Please do not say that I want to protect every investor on the stock market in Toronto or offshore or anywhere else.

Mr. Macdonald: I didn't say that.

Mr. Renwick: I'm talking about the series A preference shares of Crown Trust Co. I'm saying to the government that they let this company get into the state it was in requiring them to take this action. In my judgement, they have an obligation to protect the series A preference shareholders and I also believe the series B preference shareholders.

Hon. Mr. Elgie: I don't accept that.

Mr. Renwick: Whether you had time or not--I am not using it in a pejorative sense--the failure of your government has caused the problems that led you to take the action which you took.

Hon. Mr. Elgie: I don't accept that. I don't think that there could have been any more prompt a response in this situation. What you are really asking for is the guaranteeing of investments.

Mr. Renwick: That's fine. Why didn't you let the depositors go then? You took a prompt response, but you decided to protect the depositors. I think you had to do that.

Hon. Mr. Elgie: You are making an invalid distinction on the basis of legal jargon.

Mr. Macdonald: There is a difference. The difference doesn't necessarily carry weight with every member of the committee, but there is a difference between a situation in which CDIC, with a pre-existing set of financial obligations in relation to Crown Trust Co., can come to the judgement that they can reduce their net exposure by finding a new owner quickly enough in order to make an arrangement that will reduce their net loss over what it would otherwise be.

Now that is quite different from saying that one must find another source of funds from somebody who does not have any financial obligation to the preferred shareholders.

Mr. Renwick: I find it extremely difficult to understand in this committee why we are not talking to somebody from CDIC because that is, apparently, the crux of what is going on. It has nothing to do with the government of Ontario at all at this point in the game; it is whatever CDIC wants to do. They are saying it will be best for us to do it this way, and I think it is time we had somebody from CDIC to explain to us what Mr. Biddell and Mr. Macdonald have endeavoured to. The position they take is that we have to leave the preference shareholders. I think you are wrong not to do it. I trust that some of my colleagues in the Conservative Party on this committee will reflect upon that.

Mr. Conway: Thank you, Mr. Chairman. I want to return to one supplementary point that flows from my earlier questions and sort of follows on some of the points raised by the member for Sarnia (Mr. Brandt). This is for those of us who are interested in getting--considering we have the preferred shareholders here--a feeling for this company, particularly in the latter half of 1982.

Mr. King, you will recall that I asked you, perhaps unfairly, to comment upon some of the directors. I'm going to be a little more focused this time.

I'm trying to appreciate the situation in which you find yourselves. It's obvious from the last exchange between Mr. Renwick and the minister that you don't have some of the protection that you might expect one way or the other. Quite frankly, the more I hear of the trust business in this room, the more unsettled I get. That might be just a bit of a knee jerk reaction.

In the summer of 1982--I think it was--your beloved old company found itself, if I am not mistaken, associated with the Burnett name. Is that right? Wasn't one of the Burnett boys--

Mr. King: A common shareholder, yes.

Mr. Conway: Did that cause any upset to the preferred shareholders, did you know?

Mr. King: I would presume so; I wasn't involved. In my firm we handle quite a few millions of dollars. We are not shareholders of Crown Trust, common or preferred. Our involvement really started at the end of November.

Mr. Conway: What I'm trying to do is just to take a look at that last six months during which this company, as the minister has just indicated, really started to deteriorate and very rapidly in the last 90 days. One of the things that struck me is--and I asked you about the board of directors--was the following.

On December 7, by the time the new management of Leonard Rosenberg had effected very substantial change, had cleaned out much of the senior management, a largely new board had been installed, involving people like Sid Lebow and Victor Prousky. These people were of a very different kind from the ones, I would have thought, the preferred shareholders of the Crown trust Company were accustomed to dealing with, at least in the earlier days.

Also at that time, there was installed on the board a former minister of financial institutions, the honourable gentleman's predecessor back in the days of 1972, 1973 and 1974, John Clement.

Hon. Mr. Elgie: And Bob Stikeman.

Mr. Conway: Bob Stikeman was also on the board. I mention that because here is a guy who was a former minister. The reason I put the question to you is that--I don't know now your world works, but I am just trying to imagine--as this company falls apart, as we learn things in retrospect, it seems to have fallen into the hands of pirates who got the old company and did it in in short order.

One of the people who is on that board is a former minister of the crown. Maybe I am thinking politically--not in a partisan sense--but I am wondering whether or not there is not somebody over there who says, "We're worried enough to go and get Mr. King and his associates to protect us."

Does no one along the line pick up the phone? There's got to be a good Tory in the crowd somewhere who would pick up the phone and say, "John, what is going on?"

Hon. Mr. Elgie: Bob (Inaudible)

Mr. Conway: Maybe Bob, but a former Minister of Consumer and Commercial Relations, given the Loan and Trust Corporations Act, might be a better place to go. I'm not saying that the minister is any better than the member for Oxford (Mr. Treleaven), but in terms of the Loan and Trust Corporations Act, I might just assume, given your past involvement, you might know more about the immediate concern than someone else. I take it nobody was raising that that you were aware of.

8:30 p.m.

Mr. King: No. Certainly, one looks to a board of directors for people of stature and experience and so on. None of the people you have mentioned, in my view, had had any trust company experience.

Mr. Conway: So it didn't bring any comfort to your heart and to those people you were representing in early December that at about that time a former minister of the crown for this department was on that board? Did you see that as a destabilizing factor?

Mr. King: I think their appointments were an attempt to offset the other names that you mentioned in providing stature, but I think it is a misjudgement of the owners to think that they would provide that kind of stature.

Mr. Conway: I guess what I am saying, in conclusion, is that the Burnett name gets thrown into the mill in the summer. I have to think that really red-flagged a lot of concern at high levels among some of the preferred shareholders. I cannot believe it did otherwise.

Mr. King: I believe it probably did. That is just a subjective judgement on my part.

It takes a while for the investment community to sort of gather its resources. That is perhaps one of the drawbacks of our investment system, that there is not a protective shareholders' group, perhaps of my own industry--I am thinking of the brokers. But certainly the underwriters of the company, and so on, perhaps would have put out some recommendations or shown a concern.

The problem in our investment industry is, and this is a criticism of the broker side of the industry, they do an underwriting and it is sold and they push on to the next one. It is not a continual nursing and so forth.

I think also the lack of qualification for directors on trust company boards is perhaps another item that I am sure the ministry, no doubt, will be dealing with in the future.

Mr. Conway: I guess what I am trying to understand, Mr. King, is simply what reasonable expectation there might have been for people who are now in your unfortunate situation in that time from, say, August 1982 through to January 7, 1983, to anticipate the things at Crown Trust Co. were not as they had once been.

I might add, for the same reasons that I would have thought the Burnett name set off any number of alarms down at the OSC, I cannot imagine that over at the office of the registrar of loans and trusts that not only alarms but a hell of a lot more wasn't going on as well, but that is something we will have to deal with at another time.

I just wanted to explore it with you because now it appears that, according to what I am hearing in the room tonight--well, we have a few Ottawa Valley phrases to express more colourfully the situation in which you find yourselves, but it does not appear,

given the comments of the minister and Mr. Macdonald, that you are not in a position of very much protection. I just wondered about whether or not some of these developments in the last six months of 1982 didn't trigger a few things on your part to perhaps get greater protection.

Mr. King: Hindsight being what it is, obviously something could have been done. The fact of the matter is it wasn't until the end of November or the beginning of December that action was taken. The responsibility of the institutions that retained us did ask that we act on behalf of all the shareholders. It just simply takes time. We simply don't have the resources that Crown Trust had, or has, or the backing of the government to take such action.

This is costly to the preferred shareholders right now in that someone will have to pay these bills that we are incurring. We have a communication going out to preferred shareholders tomorrow and it is not an easy expense.

Mr. Conway: Thank you, Mr. King.

Mr. Chairman: Thank you. The last two people who wished to speak to you were Messrs. Brandt and Wrye, and neither of them is here.

Mr. King: Mr. Chairman, if I may, in the light of what has been said here today, I gather that the preferred shareholders and the institutions some of them represent are not acceptable to the government in that they wish to push on with their deal. Then I would like to put forward another alternative, and that would be for the government to buy the preferred shares. If the deal is that good, the government will be paid off in due course.

Mr. Chairman: Does the minister have a reaction to that?

Hon. Mr. Elgie: No, I have no comment on that.

Mr. Chairman: Thank you. Mr. Watson, did you want to say something?

Mr. Watson: I know what Mr. Brandt had in mind. He wanted to clarify, on page 2, the difference, whether or not it was an expense per day and then it was as a result each week. Is that what you meant?

Mr. Finley: If I might respond to that, the reputed cost reported to us for the investigators' team that is presently involved in Crown Trust is \$75,000 a day. If you work that out on the basis of a \$20-million capital investment by the preferred shareholders, if the Crown Trust Co. is being hit with that expenditure and therefore it falls right down to the bottom line behind the Canada Deposit Insurance Corp., and therefore the preferred shareholders, their net equity investment is being dissipated by this investigation at the rate of 2.5 per cent per week.

I did a calculation, presuming that the figures were correct and I'm sure someone may have a quarrel with the numbers. If you take it on the basis of the 24 days that have expired since January 7, approximately \$2 million of expenditure has been floated down to the bottom line. If our position as preferred shareholders was bad on January 7, it's \$2 million worse today.

Hon. Mr. Elgie: If I could just clarify this thing, under the amendments to the legislation of December 21, the costs of the process are a cost to the industry. It's an interesting comment, but it's a levy on the industry.

Mr. Mitchell: It's to the industry, not to the preferred shareholders?

Mr. Macdonald: No, and I think there is one other thing we wouldn't agree on. That is I don't think the government would agree that there hasn't been, and won't be, a substantial improvement in the net recovery of Crown assets over what there would have been if they hadn't taken this action. I think they would regard these costs as relative to achieving that improvement.

Mr. Watson: Does this, in effect, change that calculation then when you say "to the industry"?

Mr. Macdonald: It doesn't change the costs.

Mr. Watson: It doesn't change the costs, but who is going to pay them?

Interjections.

Mr. Mitchell: As a supplementary to that, while the minister is looking up the information. The minister has commented that this is being paid for by the industry. Then is there a sharing of that cost, based on the size of the assets?

Hon. Mr. Elgie: On earnings. By the way, that's the cost of the crash program we have been through. That's not going to be continuing costs.

As I said, the act was amended. Prior to that it said, "costs of rehabilitation," but now it is the cost of the process.

Mr. Watson: For my clarification, the result is not 2.5 per cent a week then?

Mr. Finley: I have some difficulty with the question. I was focusing on subsection 3(3) of Bill 215, where it says, "Any remuneration payable to any person under an agreement entered into under this act and any expenses incurred by the registrar in carrying out the provisions of this act may be paid out of the assets of Crown Trust Co. or any income therefrom or any proceeds of disposition thereof."

I take it from the minister's statement that does not view the investigative powers and the investigative duties--

Hon. Mr. Elgie: That is correct.

Mr. Finley: --as falling within subsection 3(3). I am very grateful if that's his interpretation and the way it will be implemented. I am grateful on behalf of the preferred shareholders.

Hon. Mr. Elgie: If you read Bill 212, which was passed on December 21, subsection 4(2), and strike out the word "rehabilitation," it says, "proceedings under this section."

Mr. Chairman: Thank you, gentlemen, for appearing before us.

Mr. King: I would just like to say thank you very much for your committee's time. I appreciate the members' attention.

Mr. Chairman: You are most welcome.

Gentlemen, shall we then proceed with the clause by clause?

Mr. Mitchell, did you have something to say?

8:40 p.m.

Mr. Mitchell: No, I just had a supplementary, but I can let it go. It was just really part of that last question.

Mr. Chairman: Fine, thank you. Mr. Renwick?

Mr. Renwick: Mr. Chairman, I think we now have to turn to what has been peripheral to this discussion about the preferred shares all afternoon, and that is to get a clear statement of the arrangements between the registrar and CDIC. I had understood that Mr. Humphrys and Mr. Richardson would likely be here for that purpose.

I have three particular concerns. I think it is important that we go through the Woods Gordon report. There are a number of questions I need some explanation about. Then we come to the whole question of the involvement of Mr. Rosenberg and Greymac in the affairs of Crown Trust. We are going to have to have some explanation of that.

Then I think we have to understand what the intentions of the government are with respect to the third mortgages, part of which are held, of course, by Crown Trust. I want to know what the disposition is going to be of those mortgages because where we come in is what's going to happen to the apartment buildings themselves.

Those are three or four areas I would like to discuss. If you want me to go ahead with it, that's fine. I had understood that we were going to have something on paper about the arrangements. We have had a lot of explanation by Mr. Macdonald and Mr. Biddell by way of interjection, but each time there were aspects of it that are difficult to grasp. Indeed, some of my colleagues on the committee have indicated that it seems to be a changing arrangement that is taking place.

Hon. Mr. Elgie: Mr. Macdonald has a letter that he has obtained from CDIC that he may wish to read or table.

Mr. Chairman: Excuse me, before we get to that subject, it's now almost 8:45 p.m. If this is not going to be completed tonight, including all clause by clause, ready to report back tomorrow, we must have the approval and instructions of the House to meet tomorrow following routine proceedings in the evening and so on.

Mr. Renwick: Are we under instructions to report back tomorrow?

Mr. Chairman: No.

Mr. Elston: No mandatory instructions?

Mr. Chairman: No, no mandatory instructions. We have right now authority to meet this afternoon and tonight, period.

Mr. Renwick: I don't mind if we don't sit tomorrow.

Mr. Chairman: I was anticipating, under the urgency of the matter, that if it wasn't finished tonight people would want to sit tomorrow before our regularly scheduled Wednesday morning. It has to go to the House tonight, or it should go to the House tonight. If it's going to, what is the wish of the committee? What is the anticipation of the committee?

Mr. Cunningham: Can we hear Mr. Markle tomorrow?

Mr. Chairman: I don't think that's quite relevant to the question. The question is, do people want to meet tomorrow? Does the committee want to meet tomorrow?

Mr. Mitchell: Surely that is a subject that we can resolve. All of us are here to attempt to move this through. If, in fact, we concur with the legislation I think we should deal with that and keep moving. We'll argue what happens later on this evening.

Mr. Chairman: It should go to the House this evening and be covered before 10:30 p.m.

Mr. Conway: I speak, I think, for my colleagues when I say we continue to view this as a matter of urgent concern. There are a number of points we would like to proceed with, most of all with the amendments we have tabled before the committee. It's not our intention to be obstructive or to delay. I want to underscore the concern once again about not having somebody from the other side to deal with this confounded issue of valuation, which is the central question, as we see it.

We've heard passionate statements on behalf of the executive council, which are in some respects compelling. I would like to think that before we complete these deliberations, we can find someone--if you can find Lennie Rosenberg, so much the better--to deal with Seaway. I was not interested so much in Markle so much

as I was to get one of these characters, these creative financiers, to tell me about this new business they are into, which I and my colleagues see as an important part of this Bill 215. I simply underscore that.

I want to reiterate that it is our view, to accommodate the orderly passage of this legislation, that we will sit as long as is necessary this evening to expedite it in a reasonable fashion.

Mr. Chairman: Really, you have not addressed yourself to my question.

Mr. Stevenson: I think I can speak for the members on this side--

Mr. Elston: Be careful.

Mr. Stevenson: For most of the members on this side--

Hon. Mr. Elgie: All the good guys on that side.

Interjection.

Mr. Stevenson: We would certainly suggest that we sit tomorrow afternoon following routine proceedings, also tomorrow evening if required. I hope we can reach a consensus on that. If not, I am prepared to make a motion that be done.

Mr. Chairman: Mr. Swart. I will come back to Mr. Conway after Mr. Swart.

Mr. Swart: I think it would be totally unrealistic to think we are going to finish this evening, with the amendments we have before us and with the questions that still remain.

I had mentioned earlier the very real likelihood that we should invite Mr. Rosenberg before this committee. That invitation may not mean there will be any more time consumed. I am saying in effect, however, that we are prepared to sit tomorrow afternoon, and if necessary tomorrow evening, to deal with this matter.

Hon Mr. Elgie: Are we going to try to make an effort to get through it tonight, shall we? Are we going to make that effort?

Mr. Swart: We shall make that effort. We have been constructive all the way up to this time and we expect to continue. There are certainly a lot of questions, however, that should be asked on this legislation. I am not giving any indication that we are going to miss discussion of those important issues to get through tonight or tomorrow night.

Mr. Chairman: Mr. Swart, you might assist us. We have amendments from the government and from the Liberals. Does the NDP have any amendments prepared yet?

Mr. Swart: I anticipate we shall have two or three amendments.

Mr. Chairman: Fine, thank you. Mr. Conway.

Mr. Conway: Certainly we would have no objection at all to sitting tomorrow. We would be very interested in sitting for a considerable length of time tonight. It would be our view that we should proceed. Mr. Renwick has indicated that he has a number of questions. We would like to get someone to speak to the valuation question from the other side.

Quite frankly, I think my colleagues will agree with me that we would be prepared to begin as soon as possible, focusing our specific concerns on the amendments that we put. I hope that satisfies you.

Mr. Chairman: Yes, thank you. I shall have the clerk contact the government House leader to get us authority to meet tomorrow following routine proceedings and in the evening if necessary.

Mr. Breithaupt: I think you also had Mr. Renwick with a series of themes he wished to start with, as he said. So we are prepared to let him proceed in that manner and complete those.

Mr. Chairman: Shall we proceed next with Mr. Macdonald's letter or Mr. Renwick's themes?

Mr. Conway: I think Mr. Macdonald's letter is in response to one of Mr. Renwick's themes.

Interjection.

Mr. Macdonald: It is not really Mr. Macdonald's letter; it is a letter that was delivered just before six o'clock this evening by Mr. Tory, of the Tory, Tory, Deslauriers and Binnington law firm, acting on behalf of CDIC, as a result of discussions which I had with him over the weekend and which I had with him and Mr. Humphrys this morning and which they had with the CDIC board during the course of the day.

Unfortunately, I asked them, if they got the letter--and I did not know whether they would or would not--if they would provide me with 20 copies. I did not know if that was the right number. They have provided me with something like 20 copies. Unfortunately, they xeroxed it before Mr. Humphrys signed rather than after, but I can assure you that I do have the signed copy. Would you like me to read it?

8:50 p.m.

Interjection: If you wish.

Mr. Macdonald: I can read it very quickly. It is dated today.

Mr. Renwick: Can you wait till we get our copies distributed?

Interjections.

Mr. Macdonald: Shall I proceed, Mr. Chairman?

Mr. Chairman: Yes please.

Mr. Macdonald: "Dear Dr. Elgie:

"We are writing in response to your request that the Canada Deposit Insurance Corp. confirm its position with respect to the future of the Crown Trust Co. business and depositors.

"The Canada Deposit Insurance Corp. has the power to make or guarantee loans or advances to member institutions in cases where such action will reduce or defer a potential loss to the corporation.

"With this in mind, the Canada Deposit Insurance Corp. has agreed that if there is no further significant deterioration in the Crown Trust estates, trust and agency business and deposit business, if an acceptable person to take on responsibility for the business assets of Crown Trust is ready, able and willing to do so on terms acceptable to Canada Deposit Insurance Corp., and if a suitable lawful basis exists for such a transaction, Canada Deposit Insurance Corp. will take the steps necessary to see to it that funds are available to enable all depositors and normal trade creditors of Crown Trust to receive their moneys when due.

"From the standpoint of Canada Deposit Insurance Corp. and its responsibilities and in the general public interest, it is clearly desirable that the loss of value of assets and inconvenience to the customers of Crown Trust be minimized. Both costs and inconvenience mount rapidly as time passes and Crown's operations continue to be restricted. In light of this, it is urgent that normal service to depositors and other customers of Crown Trust be resumed as soon as possible."

Mr. Chairman: Mr. Renwick.

Mr. Renwick: Yes, I have some questions. If I may, I would like to turn to the Woods Gordon report of January 15, the unexpurgated edition that we received over the weekend.

Perhaps we could just have confirmation for the record. On the top of page 9, it says: "At this point we have no reason to believe that the company's cash and equivalents, portfolio of bonds and common stocks, revenue-producing properties and nonrevenue-producing assets are not intact and fairly stated in the company's accounts on a going-concern basis. The liabilities also appear to be fairly stated although it will be appreciated that the completeness..." etc.

Would the appropriate person like to state for the record that there are no shortages in the terms that are set out in various places throughout this report?

Mr. Biddell: Mr. Chairman, I have been closely in touch with Woods Gordon throughout the preparation of this report and since, and I can confirm that for Mr. Renwick.

Mr. Renwick: I take it that the very nature of the orders in council impose certain cash restraints on Crown Trust and, in a sense, have exacerbated the situation.

I refer to page 7 and the reference to Canada Deposit Insurance Corp. "You"--and this is the registrar presumably to whom the report is addressed--"on behalf of the company, have reached a lending arrangement with the CDIC, whereupon CDIC is to loan any necessary amounts to the company on a fully secured basis with a floating charge on all assets. It is your intention to have CDIC advance moneys daily to cover overdraft positions that may result from all company payouts. All company-owned securities are to be delivered to CDIC's agent. To date, we have not drawn down any of these credits but rather have used available cash within the company." Is that correct at this date as well?

Mr. Biddell: That is correct.

Mr. Renwick: That is today on January 31. "At the same time, we are mindful of the necessary liquidity positions to be maintained in the company for regulatory purposes which might otherwise require us to call upon this facility and we are monitoring this need daily." I presume that is not required, or perhaps you could explain to me what that means.

Mr. Biddell: The summarized balance sheet on page 8 of the report shows that there was about \$79 million in cash and equipment and \$11.5 million in liquid bonds and some shares. Those have been used to meet the deposits that have been repaid to date, but there is a very large sum of demand deposits and short-term maturing GICs. The cash and equivalents and the bonds have been sufficient to meet the maturities to date, but that will not last much longer.

Mr. Renwick: The next item on insurance confused me. Does that mean the orders in council automatically terminated the insurance of the company?

Mr. Biddell: Where is that?

Mr. Renwick: At the bottom of page 7.

Mr. Macdonald: I suppose that would be under the terms of those policies. They probably terminate under those conditions.

Mr. Biddell: Yes. However, you can be assured that there is proper coverage now.

Mr. Renwick: Starting at the bottom of page 9, we come to Mr. Rosenberg and his associates in the Greymac group. You comment on a number of items. The first one is the third mortgages with respect to the Cadillac Fairview mortgage. I think I recognize that amount. What will happen to this particular third mortgage under the scheme as you have envisaged it for the transfer of the assets subject to the liabilities? Who will hold the third mortgage?

Mr. Biddell: That will continue to be held by the registrar and efforts will be made to realize on it.

Mr. Renwick: So the third mortgage will not be part of whatever sale takes place?

Mr. Biddell: That is correct.

Mr. Renwick: So in the unfolding of this transaction, someone is going to be the third mortgage holder. How long will the registrar hold it? After him, what will happen to the third mortgage?

Mr. Macdonald: At the moment, the legal advisers to the registrar are considering how best to protect the interests of Crown both in relation to the mortgage and in relation to the possibility of pursuing the funds that were advanced under these mortgages. Whatever proceedings are launched to protect the registrar's position will presumably be pursued by the registrar. If there comes a point at which there is no longer a trust company business being conducted in the name of the registrar and CDIC is still owned money, once the new owner has, in effect, taken it over fully himself, Crown Trust Co. would then be a proper candidate for liquidation under the winding-up act. A liquidator, a court-appointed officer, would be responsible for doing the best with the assets, including the third mortgage under the direction of the court, for the benefit of CDIC, first; the preferred shareholders, second; and then the common shareholders.

9 p.m.

Mr. Breithaupt: Crown Trust will not need 500 employees to do that.

Mr. Macdonald: At that point, there will be no employees of the corporate entity known as Crown Trust Co.

Mr. Renwick: So the third mortgage as held by Crown, Seaway and Greymac will continue to be held by those companies or the liquidator?

Mr. Macdonald: It will be either the registrar in his current incarnation or the liquidator as the successor. That is the line of thinking. We will still be in the hands of the courts if and when somebody moves for a liquidator.

Mr. Renwick: Are those mortgages in default now?

Mr. Macdonald: Those mortgages are believed to have been in default since December 8.

Mr. Renwick: Is the registrar giving any consideration to taking whatever remedies are available at this time?

Mr. Macdonald: They are giving active consideration. I think the legal advice and the response of the registrar is probably fairly close. I would just as soon not comment on precisely what action may be taken, but it will be designed to protect every possible avenue of recourse.

Mr. Renwick: Anybody can ask a supplementary on that one because I do not pretend to understand it.

Mr. Swart: On the TV program, Bill Player said there was the possibility that the \$109 million could be used to meet the mortgage payments. Are these the same mortgage payments you are talking about? If so, have any steps been taken? I realize this is just a statement made by him out of the country that may not have any validity, but in view of that statement, what steps are being taken to see if any of this money is available to meet those payments?

Mr. Macdonald: Hopefully, proceedings will be launched before too long. When they are launched, you will be able to see--

Mr. Renwick: I just wanted to know if proceedings are going to be taken. I am not asking what the details are.

Mr. Macdonald: No, that is right. Let me put it to you this way. The registrar clearly sought the advice of our firm as to what the available remedies were. We have looked into it. I am sure you can imagine that there are a number of different issues. One wants to be very careful that in taking an action, one does not foreclose some alternative action.

The facts surrounding this are very complicated. When we go into court, we must be certain that we have the correct facts. The short answer is the registrar has sought legal advice. He is in the process of getting a response and we would expect that something will be happening pretty quickly.

Mr. Swart: Would you care to indicate any other areas where you say there may be several issues or areas which can be explored for recovery? What other areas are there besides this--

Mr. Macdonald: At the moment, I would not care to try to express a view beyond this very large asset of the defaulted Cadillac Fairview third mortgages. I think it would be premature to speculate about what else might be open to the--

Mr. Swart: But there are others that are being investigated and are they of substantial amounts?

Mr. Macdonald: If you look at page 10 of the Woods Gordon report which reflects the conclusions of Woods Gordon on those transactions that appear to have had a close relationship to Mr. Rosenberg, you can assume that any legal proceedings that might flow would relate to one or other of those transactions. But we would not wish to comment in terms of immediacy beyond the matter of the Cadillac Fairview properties.

Mr. Cunningham: You will no doubt have exercised section 193 of this act.

Mr. Conway: I think in a rather laboured and circuitous way learned counsel has answered my question.

Mr. Renwick: Mr. Macdonald is referring to the registrar consulting his firm with respect to the third mortgages held by Greymac, Seaway and Crown, and the actions he will be taking with respect to the remedies available. Is it your guess that that will smoke out whoever the actual holders of the equity redemption on the properties may possibly be?

Mr. Macdonald: I do not know that I would like to speculate on that. They may.

Mr. Renwick: But we can expect it momentarily?

Mr. Macdonald: I think pretty quickly.

Mr. Renwick: Pretty quickly.

Mr. Cunningham: Surely Mr. Macdonald is in a position to tell us that they would certainly want to exercise provisions of section 193 on directors, who I see here are to be held jointly and severally liable for payment to it unless, of course, they are exonerated by way of protestation.

Hon. Mr. Elgie: Any action to be taken on a loan is being reviewed by counsel as well.

Mr. Cunningham: Certainly. I am sure you were doing that with Astra.

Mr. Swart: I am having difficulty hearing the exchange. I do not know whether anybody else is or not. It was very quietly spoken.

Mr. Chairman: You would have been interested. It was about Astra/Re-Mor.

Interjection.

Mr. Swart: Nobody accuses me of that either.

Mr. Renwick: Perhaps Mr. Macdonald or Mr. Biddell would run down the various questionable investments that are listed at the top of page 10 and enlarge on your comments about them and speak about the two letters of credit in the amount of \$10 million and \$25.3 million.

Mr. Macdonald: I will let Mr. Biddell respond to that.

Mr. Biddell: The \$10 million letter of credit was in connection with the Daon transaction and represented a further exposure of Crown Trust. It had contributed \$53 million with respect to which it had a first mortgage position on the shell of an office building in downtown Vancouver. It had a commitment to subordinate that first mortgage to construction funds to complete the building. Further, if it did not do so, and if funds were not forthcoming to complete the building, Crown Trust had an additional liability of \$10 million with respect to this letter of credit to the general contractor on the site.

9:10 p.m.

After a very considerable amount of investigation, in which the special committee advising the registrar, led by Messrs. Lambert, Bell, Taylor, etc., reviewed this matter very carefully, it was decided that it was the better part of wisdom in an effort to recover on this mortgage to go ahead and agree with the subordination in order to see the construction continued on the building. That, the committee decided and the registrar concurred, was the best way of trying to get recovery on this amount.

The item of \$3 million was just a host of small additional provisions which Woods Gordon, assisted by experienced mortgage personnel loaned by other trust companies, decided should be provided against a general mortgage portfolio of the company. The next item of \$2 million is for preferred shares of Carlyle Eagle Petroleum Ltd., a company in which Mr. Rosenberg and others had a major involvement. It was assumed that recovery of anything on those preferred shares was rather unlikely and so it was listed as one of the soft assets.

The same holds true for the \$3.8 million loan to Kincorp Holdings. There, again, this is a company which is in some way related to Mr. Player. The recovery of that amount was deemed to be rather suspect. The last item, the deposit with Greymac Credit Corp., was a deposit of \$7.5 million made by Crown Trust with Greymac Credit as an advance payment on the proposed acquisition by Crown Trust of the shares of Greymac Trust Co., which in the proposed amalgamation would be acquired by Crown Trust and then the two companies amalgamated. That deposit had been made prior to January 7 and, again, at the time this was written, there was no real knowledge as to the financial position of Greymac Credit or whether or not it would be possible to get that money back. That is still a matter of conjecture.

Mr. Renwick: Going over to page 11 on the third mortgage on Cadillac Fairview properties, what is that reference to "full appraisal reports dated November 5 were subsequently received" and included a statement about the net cash flow from the head lease? Who prepared those appraisal reports? They seem to me to touch upon this whole question of value.

Mr. Biddell: I do not know whether the names are in here. I have seen them. These were appraisers engaged by someone in the group, whether it was Mr. Rosenberg or Mr. Player of Kilderkin or whoever. In any event, those were the appraisals on which the three trust companies apparently relied when they decided to invest \$152 million in third mortgages on these properties.

Mr. Renwick: What value did they put on the properties?

Mr. Biddell: I have not personally seen those appraisal reports, and unless the answer to that question appears specifically in this report, I cannot answer it at the moment. I do know that those reports were subsequently examined by the chief appraiser for Canada of A. E. LePage Ltd., whom the minister and the registrar engaged to make such examinations. LePage raised serious questions about the validity of those appraisals.

Mr. Renwick: Is it possible for us to have any information with respect to the appraisals on those properties? My colleague was asking yesterday about the value for assessment purposes. Is it possible that we can have the opinions that you got from A. E. LePage on those properties?

Hon. Mr. Elgie: The material that cabinet acted on is a matter of legal action now and it is not available. The material and advice that cabinet acted on is a matter that is before the courts now and is not subject to reporting here.

Mr. Renwick: I take it we are not going to get any information about appraisers or appraisal value of any kind from the ministry, is that it?

Hon. Mr. Elgie: Not of that part of it. What else is there?

Mr. Renwick: The Fairview Cadillac properties.

Mr. Macdonald: Mr. Chairman, if one reads, I have to admit with quite a bit of care, what the Woods, Gordon report says on 12 and 13, I think what you come away with is a recognition that the appraisal reports were based on the assumption that a head lease that guaranteed cash flow deficiencies could be capitalized and added to the other normal rental flow from the buildings to arrive at a total value for the real property. I think you will see that Woods Gordon regards that as a totally inappropriate procedure.

Basically, perhaps to oversimplify it, if you have got a piece of property that has rents being paid by people who are using the property, then it is reasonable to take the rents and deduct the costs, arrive at a net cash flow, project it into the future and come up with a present value of that cash flow and say that that is one way of getting at the value of a piece of real estate.

If, once you have done that, you then decide that you would like to regard that real estate as worth more, you enter into an animal called a head lease which says we will pay some cash flow on top of the real estate cash flow. We would then capitalize that and treat that as an add-on to the value of the real estate, and then say we will take the two of those things and give it 75 per cent of that combined total as a mortgage, ostensibly meeting the 75 per cent of real estate value requirement of the Loan and Trust Corporations Act.

As best, I think, as we are able to understand the procedures adopted by the appraisers, that appears to be the procedure, and some people describe it as circular, but you could do it with any sum of money.

Mr. Chairman: Excuse me, sir, just a minute. At the same time my brow creased, I saw several other brows crease. It is at the point where you began the head lease. It was fine up until then. How was it added on through the head lease?

Mr. Macdonald: I think the concept was this, that Kilderkin appeared to acquire the property from Greymac Credit for some \$40 million more than Greymac Credit paid, which got it up to \$310 million. Then it said to the numbered companies, "We will sell what we bought for \$310 million to you for \$500 million." Perhaps they then said, "That is all very interesting, and we will arrange to have a \$152-million mortgage put on the property." I am sure that the owners of the numbered companies said: "That is all very interesting, but when we look at the cash-flow deficiency between the rents that, even on an optimistic view of rent control, can be achieved, minus the costs, we see a huge cash flow deficiency. We can't begin to service that mortgage."

9:20 p.m.

Mr. Chairman: There is too much noise in the room and several people are being disturbed by it.

Mr. Macdonald: Along comes Kilderkin and says, "Don't worry about that, because we will lease this back from you and we will guarantee you the difference."

The view of Woods Gordon, in assessing the appraisals that were prepared to accept this guarantee of cash flow deficiency from the head lease as forming a component of real estate value was that you could do that and that meant that you had a \$500-million value and, therefore, three quarters of that gave you \$375 million, and that put the \$152 million onside.

The view of Woods Gordon, which is the view of the registrar and of the government, is that that is a completely circular procedure. One could have chosen \$600 million and had a mortgage of \$450 million, and one could have then had a head lease that guaranteed that enlarged deficiency.

If you read through the two pages of rather detailed assessment of the lending procedures adopted, the actual documentation obtained, you will find that there was no evidence as to the financial capability of Kilderkin.

Mr. Renwick: Just to the form of the transaction, and thinking for a moment that your firm had handled it and there were no defects in the documentation, it was perfectly done that way. What then?

Mr. Macdonald: Just exactly as I have described it. If the documentation had been perfect in a formal sense, you would have a head lease guaranteeing a cash flow deficiency which was almost entirely the mortgage carrying charges of the third mortgages, and--

Mr. Breitnaupt: Together with the first and second.

Mr. Macdonald: The first and second, I think, if my memory is right, were largely carried by the rents.

Mr. Spensieri: Until there is a default or there is a breach of that arrangement, what gives you the right to determine that there is not the ability to--

Mr. Macdonald: I think we keep talking about two different periods of time. The day the cabinet made their decision, of course, they had no knowledge that there was a default, they had no knowledge of head leases--I guess they had some knowledge of head leases, but they didn't have the kind of detailed knowledge that there was in the Woods Gordon report.

All they had to do--and that is not to say it was an easy thing to do, but the focus was, as the minister has said on more than one occasion, including in his first statement and the second, on did they have a borrowing base to entitle them to the privilege of going out to the public and receiving deposits? That was the heart of the issue.

The view was that, whatever validity there might be in financial terms to the head lease, that is, however good it was--if it was Conrad Black or Lord Thomson, who might have been 100 per cent good for the head lease--that doesn't mean that if, by some fluke, they cease to be good for it and you had to re-expose that piece of real estate to the market, you could get anything more than what that piece of real estate was worth in the market.

Mr. Breithaupt: So you couldn't guarantee effectively the valuation borrowing base?

Mr. Chairman: Excuse me, I have to go by some order here. Mr. Brandt.

Mr. Brandt: I just wanted to pursue that question. This is supplementary to Mr. Renwick's line of questioning.

The rather unconventional method of ballooning the value by this technique--I'll wait until you are--

Mr. Macdonald: Sorry.

Mr. Brandt: That's why I stopped. I think I have to have you answer the question.

The unconventional method of ballooning the value of the property through this technique of topping off you have described, does this not also leave, in addition to a piece of property that is grossly overvalued and therefore if it had to stand the test of the market place-- In other words, under forced sale conditions it should generate 75 per cent of whatever the market was back to the lender so that he is reasonably safe.

But is there not something else that happens here, namely, that in between the \$300 million and the \$500 million and the mortgages that have been given for this particular purpose, does it not also leave a very large sum of what I would have to call

unearned wealth somewhere in the middle of this transaction? In other words, a cash-out position where somebody gets his rather sweaty palms on a large number of dollars? Does this not also follow?

Mr. Macdonald: That is right. I begin to lose the thread as to all the material that is being presented in what form, but I believe that in one of the minister's statements what happened to that money is outlined, what happened to the \$152 million. There was a real \$152 million. The real \$152 million came from public deposits.

There may be another \$109 million or some other amount that no one has seen, which seems to fascinate everybody. The thing that we have been focusing on, and had to focus on, is the fact that there was \$152 million of real dollars. Of those real dollars, some \$40 million went to Cadillac Fairview as the balance after their second mortgage back. That was based on the valuation obtained by Cadillac Fairview from Laventhol and Horwath. It was obtained after that property was exposed to the market for quite a number of months.

I think I stated before the committee on another occasion that was one of the elements, the fact that the property had been exposed for this length of time by as strong a company and as knowledgeable a company as Cadillac Fairview with as clear a valuation from as well-reputed an evaluator as Laventhol and Horwath, that made one question whether one could easily assume a value of more than \$270 million for the purposes of the 75 per cent of lending value one could say of a value of more than \$300 million because of the 75 per cent.

That's where the first \$40 million went, to Cadillac Fairview. Forty-two million, as the minister reminds me, went to Greymac Credit as the highly-publicized profit that Greymac Credit desired for participating in that transaction. The balance went in a number of different directions. I'm sorry, I can't remember in which of the documents--

Mr. Renwick: I remember it was very clearly set out.

9:30 p.m.

Mr. Macdonald: Yes, so it is clear. The committee can assume that the legal advisers of the minister are focusing on that aspect of the matter.

Mr. Renwick: It precisely comes back again to that question of why we have been so concerned about what steps the registrar is going to take to enforce whatever remedies he has. It was, as you say, \$152 million of real dollars that went out.

Mr. Macdonald: You can assume that it is being looked at as hard as the minister's legal advisers are capable of looking at it.

Mr. Conway: I am correct in remembering that roughly \$72.5 million of that went directly to the control of Leonard Rosenberg, as Greymac Credit--

Hon. Mr. Elgie: My recollection is \$30 million paid for Greymac Mortgage.

Mr. Macdonald: That's right. Kilderkin, out of its share of the \$152 million, applied \$30 million to the purchase from Greymac Credit of Greymac Mortgage. Is that right?

Hon. Mr. Elgie: Fifteen million went from the GICs of Crown--

Mr. Renwick: The minister's statement explains this very clearly, yes.

Mr. Chairman: Following some kind of order here, Mr. Cunningham should be next and then Mr. Swart.

Mr. Swart: I just wanted to have a supplementary on this, if Mr. Cunningham is going to ask--

Mr. Chairman: He also has a supplementary, I believe.

Mr. Swart: Okay.

Mr. Cunningham: If you accepted the idea--and we're dealing with value--that there could be a 10 per cent variable one way or the other on those premises, (inaudible) If they had gone conceivably for 10 per cent more than what I personally believe is market value, which is \$272 million or thereabouts, it is not inconceivable that they would have got away with this, it being a circular type of deal. If it was only \$300 million and the variance was \$27 million or \$28 million, nobody would have known.

Mr. Macdonald: No, but I think the question that one asks at the moment and which, until one has evidence, one can't answer is, if that is all they had done would there have been a transaction? If they had only gone to \$300 million, where would they have got the real \$70 million?

In other words, one of the things you have to ask yourself--I'm not giving the answer because I am not claiming to know the answer. I am not a witness in this matter, so I have no evidence. One does ask oneself the question, if one was only at \$300 million, then the \$225-million existing first and seconds would have precluded any recourse to the public deposit moneys of the three trust companies. There would have been no ostensible basis for a 75 per cent mortgage.

Mr. Breithaupt: Only the inflated value could have rolled that money out.

Mr. Macdonald: That's right.

Mr. Cunningham: Conceivably, apart from the valuation issue, the other burden the ministry has is intent, what the intent of all of this was.

Mr. Macdonald: I think that what's important, and what I think has been very clear in the statements of the ministry, has been that while there may be a great many issues, some of which are being touched upon today--you mentioned a section of the Loan and Trust Corporations Act. We have discussed possible remedies of a legal character in relation to the mortgages and the funds that are flowing, but in terms of the regulatory responsibility of the minister and the registrar under him, one has to be very careful about forming judgements about legal matters outside the courts. The question of whether there has been a breach of a statute or whether one has certain remedies in relation to certain transactions are matters for the courts.

What was a matter for the registrar, for the minister and, ultimately, for the cabinet, was whether or not there was a clear basis on which the government could conclude that there was an existing or potential prejudice to depositors. The focus of that consideration revolved primarily around this question of the borrowing base. Then one does not have to decide whether or not there is "misbehaviour." One only has to decide whether as a regulator, recognizing that you are regulating companies that can go out and seek money from the public who have no way of getting inside to understand the nature of the portfolio being administered by the Loan and Trust Corporations Act, one could continue to allow companies whose borrowing base has effectively been eliminated to continue to receive deposits.

Mr. Cunningham: I have a final supplementary, Mr. Chairman, if I might. A widow has her GIC with--for my purposes, let us say--Greymac Trust--

Mr. Macdonald: Make it Crown so we can properly discuss it here.

Mr. Cunningham: Greymac Trust would be easier for me. Someone comes to Mr. Rosenberg and says: "I want to buy this building. I have been turned down by the banks and I seek mortgage money from you for this building." The appropriate appraisal is done and somehow, let us say, the appraisal is as generous as you would consider the Cadillac Fairview appraisals to have been. There is an item in the paper that says this building is worth \$4.8 million when in fact it is only worth \$2.8 million. At the same time, keep in mind my friend the widow who has gone in with her \$10,000 of GICs. Money is advanced based on the value of \$4.8 million, i.e. let us say, \$3.5 million. My math is not very good. Is that close enough?

Mr. Macdonald: It should be \$3.6 million I guess.

Mr. Cunningham: Okay, \$3.6 million. Mr. Rosenberg accepts in return for this mortgage a broker's fee for which I gather there is no limit. It could be unfair, fair or whatever. So hypothetically, let us say he accepts 10 per cent and that 10 per cent then leaves Greymac Trust. He actually leaves Greymac Trust with a large pile, \$3.5 million, and the guy who picks it up on the other end--I see Mr. Biddell nodding--does not get that much.

He gets net and \$350,000 goes to our hard-working friend, Mr. Rosenberg. That is deposited in his corporation called Greymac Credit. I see in the Globe and Mail dated February 28 that Greymac Credit is buying part of Dixie National Bank Corp. in Florida.

My long, convoluted question to you is: What are we doing to make sure we guarantee the little old lady who finds herself a creditor in a deal trying to recover on a piece of property that is at \$2.8 million, not \$4.8 million? What are we doing to try to cover her if this was hypothetically the case? What are we doing to get our hot little hands on Greymac Credit or Carlyle Eagle or any other trust company?

Mr. Macdonald: What you are asking is: Will the legal proceedings that we have been discussing take into consideration the moneys that appear to have flowed from these mortgages? I think you can assume that issue has been and will be addressed in the proceedings that will be brought to protect the interests of the three companies in the mortgage transactions.

Mr. Cunningham: Mr. Macdonald, were you not a very capable lawyer, you should have been a doctor because you have a great bedside manner. With this piece of legislation, which in my seven and a half years here is the most strange, extraordinary--The whole thing is bizarre, more bizarre than anything I have ever seen in this room on previous occasions when we dealt with Astra Re-Mor. I don't know. I don't know if I'm assured.

Mr. Macdonald: Well, I could suggest to you--

Mr. Cunningham: I could tell my lady down the street, who may be out \$10,000, that she should visit the Dixie National Bank Corp. in Florida or she could spread and protect herself by going partly after the Dixie Bank Corp. and maybe grab a few preferred shares of Carlyle Eagle and one tenth of one per cent on an empty building in Vancouver?

Mr. Macdonald: Let us put it this way. In terms of the wide group of issues that are not before this committee, my advice is always to try to proceed in sequence, even while recognizing the right and interest of people in the opposition and in the press to try to find out as much about everything as quickly as they can. Within the next day or two or three or four, we hope to have some results which you will feel were responsibly taken. As to the relevance of that to this issue, I really do not see it.

I share your view that this is legislation unique to my experience. Obviously, the government is not in love with this legislation or it would have included this right back in December. Having said that, I have no problem in advising this as the most responsible course of action. The existing alternative is demonstrably so much more damaging for everybody. It is not as though Ontario had a financial interest and, by introducing this legislation, it was getting a leg up in relation to other people with a stake in the enterprise. As far as I know, Ontario has no financial stake at the moment.

It is moving in to protect the financial stake of others. The only existing legal procedure is the damaging one of liquidation which will result in deterioration of the value of the Crown business and assets. This, in turn, means the uninsured depositors will lose and will not get paid for a long time, CDIC will lose more and it will be hopeless for the shareholders.

I agree that this deserves every scrutiny because it is unusual, but I believe that it is a more efficient, fair and effective method of realizing the interests of the stake holders in this enterprise than any existing alternative or any prospective alternative.

Mr. Swart: I think we understand what is taking place in this and perhaps we have understood it for some time. Some terms are used here and I want to make sure I understand them. For example, my understanding of head lease is that it set a value on income which would justify from that income a value of \$500 million on these properties. Am I right in assuming that?

Mr. Macdonald: I think in a broad way, yes.

Mr. Swart: The value you are using is really the market value--

Mr. Macdonald: Of the real estate.

Mr. Swart: --of the real estate. That is one reason I asked for the assessment information, and I specifically asked to have it on market value. That was an independent valuation and I think this committee should have that information. The appraisal was made by the Ministry of Revenue.

Mr. Macdonald: I have no problem with that. I just don't know about the state of it.

Mr. Swart: We haven't had it here. We have asked for it in writing and I presume we will get it in writing. My question pertains to it. While it would seem to us, as laymen, that the market value is the appropriate kind of valuation to use, is it not true that even the assessment branch of the Ministry of Revenue uses income to base the assessment under its present assessment program? In fact, the assessment branch of the Ministry of Revenue often assesses rents which are different from the actual rents. They set imputed rents for property on which they base the value of the property for assessment and tax purposes. Is that not true?

Mr. Macdonald: Frankly, I am not familiar with what the Ministry of Revenue does, but I make this observation: There is no question in the world that one of the elements to be examined in any real estate valuation is the present capitalized value of the net cash flow, taking gross rents minus expenses. However, I think this brings us to the crucial distinction to bear in mind; we are talking about the rents paid by the users of the property, so they reflect the value of the property to users.

If somebody comes along with another rent that is not related to those rents, but is related to some other consideration, then whatever the value of that may be, there are other such things as so-called financial leases. The covenantor may be good for an amount of money that bears no relationship to the value and use of the particular asset, but that is not part of the asset value.

Mr. Swart: I understand all that, but it comes back to the point raised by my colleague the member for Riverdale (Mr. Renwick). This committee should have the benefit of all of those valuations of the property if we are going to make a decision on the validity of this legislation and on the statement that it is not worth more than \$300 million.

As a layman, I, quite frankly, can't see why that full information on the valuations shouldn't be provided, whether it be the valuations put on by the registrar, by Woods Gordon, by Rosenberg, by Bill Player or by the Ministry of Revenue. We should have all of those valuations before us to determine what we think is the appropriate value. From that, we can judge whether, in fact, the property is as overvalued as the ministry feels it is. Is that not a fair statement?

Mr. Macdonald: I think I could respond to it this way: Whatever the merits or demerits of the government's action on January 7--and you can be in little doubt about what I think about that--

Mr. Swart: We have to pass judgement on it.

Mr. Macdonald: That's right, but that action has been taken. We are now facing a different issue, which is what is going to happen to the Crown Trust depositors and the business and the assets. It seems to me that the Woods Gordon report is providing enough to the Canada Deposit Insurance Corp. to take the view of the matter that it is taking, and is providing enough to the government to take the view that it is taking, and it does not depend solely on the question of the value of the Cadillac Fairview mortgages. There is also the question of the Daon mortgage and another \$12-million or \$14-million worth of other--

9:50 p.m.

Mr. Swart: And the new factor of limitation, of course, by the legislation which was passed in November.

Mr. Macdonald: What factor is that?

Mr. Swart: That the past two can only be increased by five per cent. That would have a very major--

Mr. Macdonald: Whatever it is, that is the world that we are looking at today. It seems to me, in my perspective, that one could play around with the \$132-million figure at the top of page 10. One could conclude that as much as two thirds of those questionable mortgages might some day be recovered, and one would still be faced with the reality that there is no alternative but the alternative being proposed.

While I don't say that value is irrelevant, I think that that issue is being overtaken by events and the reality, as Mr. Biddell has pointed out, that there is a liquidity problem in Crown Trust. This means that even if one were able to conclude that all these mortgages were good, it is most unlikely that one could set that company back out untended into the market place without finding that it faced an immediate liquidity crisis.

So I really do believe that, if one takes all the factors of the present situation, one is driven to the conclusion that there is only one realistic course of action, however distasteful it may appear to be.

Mr. Conway: I have a supplementary, if I could. Again, I am among the most uninitiated, but I gather you have just explained--

Hon. Mr. Elgie: Join the ranks.

Mr. Conway: I am not ashamed to admit it again, but you have taken us through the Oklahoma, basically; that is what I understand.

Mr. Macdonald: I don't understand the meaning.

Mr. Conway: I will just continue with Mr. Biddell's help here to understand something. The Rosenberg crowd took over Crown Trust on or about October 7. Is that correct?

Mr. Biddell: Yes.

Mr. Conway: Do you remember the date on which they advanced the moneys?

Hon. Mr. Elgie: The fifth and eighth.

Mr. Conway: On November 5 Crown advanced \$62 million.

Hon. Mr. Elgie: The fifth and eighth.

Mr. Conway: The fifth and eighth. Can you recall when we passed the amendments to the rental legislation?

Hon. Mr. Elgie: December 21.

Oh, the rental legislation? December 7. It was introduced about the week of November 24 and was passed the first or second week in December.

Mr. Conway: I am sitting here seeing Mr. Macdonald talk about this deal they have got cooked. God only knows how they ever managed it.

Mr. Macdonald: I never used that word.

Mr. Conway: No, I did, but the arrangement, whatever word; you just took us through something that sounded--a process. I will call it a deal; others will call it an Oklahoma. I won't get into the business about it. This is apparently the Oklahoma scam.

Mr. Breithaupt: The wind comes right behind the rain.

Interjections.

Mr. Conway: I won't entertain a discussion about the fact that apparently people are coming forward now and saying: "This has been the state of much of this industry for a number of years. This is creative financing; it is being done by a whole host of people in very small units. It was an act of daring to try it with so large a component in the country's leading metropolitan community."

I am wondering and thinking to myself, however, surely, Mr. Minister, the day you introduced that legislation on controlling the rental pass-through, you dealt that deal a crippling blow.

Would I be right in thinking that, Mr. Biddell?

Hon. Mr. Elgie: Let me just add to that a question that I answered in the House the other day.

A letter was delivered to me on November 15 in which Kilderkin indicated that they would ask for increases in 1983 averaging 13 per cent.

Mr. Renwick: Thirteen per cent.

Hon. Mr. Elgie: I did not, however, see myself as being in the position to bargain over rent increases. All I am saying is that, prior to the introduction of the bill and prior to my statement to the House, it was in someone's mind that 13 per cent would be enough.

Mr. Conway: That may be so, but I am looking at a controlled market in which this property was found. Mr. Biddell, would I be right in thinking--if not please say so--that legislation that altered the rental, the pass-through, would have a fairly significant impact, in the intermediate and long term, for that deal?

Mr. Biddell: I think that is correct. They would have had to have had a massive increase in the rentals on the Cadillac Fairview properties in order to have this deal work out, because that value could only have been substantiated in any way by Kilderkin's covenant being good, Kilderkin having the ability to make good on the cash-flow deficiencies. For it to make good, it had to have a very material source of revenue.

Mr. Breithaupt: Or more capital.

Mr. Biddell: More cash. They had have to get it from vastly increased rentals, or they would have to get it from the group that was supposed to put up the other \$125 million. Up to now I have not seen any evidence that the latter is available to them, notwithstanding what Mr. Player seems to be saying in his television interviews.

I don't know; maybe they are, but--

Mr. Conway: So the logical place was in the rental area?

Mr. Biddell: That is the place where you would normally expect him to find it.

Mr. Breithaupt: If this had worked, they could have taken Mexico next.

Mr. Brandt: That fund of \$109 million or \$111 million that is supposed to be in the Cayman Islands is really irrelevant to this whole matter, is it not, because the money is not in the deal? Is that not correct? The money would have to be there available--

Mr. Conway: And Kilderkin would have to have control over it.

Mr. Breithaupt: Or could call it down to build up what--

Mr. Brandt: Call upon that, as required. That is not the case--

Mr. Swart: He says it is not the case. We have no idea.

Interjections.

Mr. Macdonald: I just want to say that even if the \$110 million were used to buy the mortgages back tomorrow morning, you still have to look at the Daon mortgage and the other transactions, and you are still well on the short side. That is really the burden, why you do not have to be too refined about the value of any one, when it is so clear that, when you take them as a group you are so far away from having a financially viable company that you are back faced with the problem of what you are going to do about it.

Mr. Brandt: With respect to Daon, could I ask you--because we have not been talking about that one to any great extent. A building of multi-millions of dollars in value--I forget what the specific price is; but it is 700,000 square feet--in a building of that magnitude, is it unusual that there would not be a deal struck with a lead tenant somewhere?

In your experience, a large company that would take over a substantive amount of square footage to protect the investment, before you even proceed with construction and mortgages, is that not common?

Mr. Cunningham: You asked that question some time ago.

Mr. Brandt: Yes, I know. But I just wanted to know if, in your experience, there was ever a situation of which you are aware that someone would speculate on 700,000 square feet of building without knowing where the tenants were going to come from.

Mr. Spensieri: It was going to be the head office of Greymac.

Mr. Macdonald: I would not say whether 700,000 square feet in a city the size of Vancouver--that is pretty big, but without being able to recall specific examples, I wouldn't be surprised if one could find some speculation on perhaps somewhat smaller buildings.

10 p.m.

Some entrepreneur might be ready to do that, but it would be highly unusual--having regard to the apparent condition of Daon Development Corp. at the time--for a loan and trust corporation to undertake to make a second mortgage of \$50 million that would fall behind a first mortgage of \$100 million that would produce a building of \$150 million. You are right that most buildings of that size would have a lead tenant.

Mr. Biddell, am I not right? Just to be sure we are not misleading the committee, did we not ascertain that two things were clear when the \$50-million first mortgage was advanced by Crown Trust Co. on the Daon building? First, it was clear that there would be another \$100 million necessary in order to construct it.

Mr. Biddell: That's correct.

Mr. Macdonald: Second, it was a term of the first mortgage that as that \$100 million was advanced, the first would become subordinated or made subject to it.

Mr. Biddell: It would become a second.

Mr. Macdonald: It started as a first, but it was obligated to become a second as the necessary \$100-million construction finance came forward.

Mr. Cunningham: Was there a commission?

Mr. Macdonald: I can't answer that question.

Mr. Biddell: Yes, Crown got a commission on it.

Mr. Cunningham: What was the commission?

Mr. Biddell: Five million dollars.

Mr. Cunningham: Did that stay with Crown?

Mr. Biddell: They didn't get any cash. They put out \$48 million in cash and they got a \$5-million commission, so they now have a \$53-million second mortgage.

Mr. Brandt: What is the triggering mechanism that opens up the Bank of Montreal \$100 million? That seems to be a relatively loose commitment that's not covered very well in the Woods Gordon report. Obviously that money or some other alternative funds are going to be required to complete the building.

Mr. Biddell: At the time the Woods Gordon report was written there was not a binding commitment on behalf of the Bank of Montreal to come up with that construction money. After a good deal of negotiation between the registrar, his representatives, the Bank of Montreal, Daon, the owner and others, the Bank of Montreal agreed that it would come up with the construction funds provided the Daon first mortgage was turned back to a second.

Incidentally, that is why the minister initially released only a part of the Woods Gordon report. Those negotiations were still in progress. We simply could not jeopardize the negotiations with the Bank of Montreal by putting out the complete Woods Gordon report at that time. Otherwise, it would have been put forward. This was put out as soon as those negotiations were completed and the Bank of Montreal was committed.

Mr. Chairman: Thank you. We are back to Mr. Renwick.

Mr. Renwick: I take it--under the process you're going to go through now--that Crown Trust at some point will simply cease to exist as a trust company. That's my understanding. It will be similar to the way in which British Mortgage and Trust Co. ceased to exist as a trust company.

Did you ever consider incorporating a company yourself, in view of your long-term plans with respect to loan and trust corporations and the decentralization of control? Did you ever consider incorporating a trust company with the registrar, and instead of using somebody out in the private world, carrying out this process yourself with the assistance of the Canada Deposit Insurance Corp.?

Hon. Mr. Elgie: Did the government ever plan on getting into the loan and trust business, you mean?

Mr. Renwick: I don't know whether you want to turn it around that way. All I am saying is that you have a problem with Crown Trust. If you had decided to incorporate a company, which over a period of time you might very well have divested your interest in and continued on to stabilize the situation that way--Did you ever give consideration to that as a possible viable method by which it could have been done? You initially take, say, 100 per cent of whatever the investment is and then over a period of time you sell it down to 50 per cent or 10 per cent or whatever you want to do.

Hon. Mr. Elgie: No, we didn't. CDIC's arrangements with us were to pass it to a firm--

Mr. Renwick: I think you might have been acceptable to CDIC.

Hon. Mr. Elgie: I don't believe that.

Mr. Renwick: Let me ask the other question there. What are you able to tell us about who is going to buy it?

Hon. Mr. Elgie: I can't tell you anything now because I, frankly, have not received the recommendation of the committee.

Mr. Renwick: When do you expect to?

Hon. Mr. Elgie: Any time now, but that's not the issue. The issue is that the act before you requires the Lieutenant Governor in Council to make the determination about whether it accepts or rejects that recommendation. Once that has been done, you're free to question--

Mr. Renwick: There has been a reasonable amount of speculation in the press about the people you've been in touch with. Are you able to give us that list?

Hon. Mr. Elgie: Who we have been in touch with?

Mr. Macdonald: I don't know that we can even do that, can we?

Mr. Biddell: No, we can't. There have been a considerable number of them.

Mr. Renwick: In your letter of January 28, you say that for practical purposes, anybody who wanted to have a crack at it has been available to come in.

Mr. Biddell: You must understand that for practical purposes that restricted the eligibles to those who had both the resources and the experience. There were a number of recently incorporated very small trust companies who said they would like a chance to take this thing on, but they had neither the resources, by a country mile, nor the experience.

Mr. Renwick: Will it be a trust company?

Hon. Mr. Elgie: I can't tell you that. Not all trust companies have indicated an interest, I can tell you that.

Mr. Macdonald: If I may say--I know Mr. Renwick got cross at me and that's all right--it's a problem to state to the committee what one believes to be a reality, which is that one can lose one or more of those parties and yet not, understandably, be perceived as introducing a threatening element into the discussion. It still is a reality.

How one can present in a forum the reality that is perceived

as a reality, not as a threat, is beyond my skill. None the less, someone who we may think is a possibility today may no longer be a possibility by Wednesday. It just isn't prudent or proper to speculate.

Mr. Cunningham: It might be an incentive for those who think we should have a provincial trust company.

Mr. Chairman: Excuse me, Mr. Swart, do you have a supplementary at this point?

Mr. Swart: Yes, my supplementary was just this: are these bids you are accepting or the proposals you are receiving on the sale of the company as a whole; some of it or all of it divided into just one package?

Mr. Biddell: No, it's a work-out situation of the company as a whole, but excluding the soft assets.

Mr. Swart: All of the proposals are on that?

Mr. Biddell: Yes.

Mr. Renwick: So the story in the Globe and Mail was an incorrect account where it sounded as though you might have a half a dozen parcels that you might peddle?

Mr. Biddell: No, we had no intention of doing that. That wasn't a workable situation. We had to hold it all together and try to deliver the trust and estates business to get the maximum recovery.

Mr. Conway: I am a little mixed up now on what was discussed earlier. I don't want to belabour this point, Mr. Biddell, but I would like to come back to the agency comments of earlier today. I had always had the idea, prior to that comment, that it was essentially your plan to break the company into two component parts: the soft assets and the hard assets. The hard assets, I thought initially, would go off to a new owner without an intervening agency stage. I gather from what you said today that the point of ownership comes down the road a bit, that there would be a bridge agency.

10:10 p.m.

Mr. Biddell: Indeed there will. The largest part of the hard assets are the investments, the largest part of which are the mortgages. The plan is that whole package of assets, excluding only the soft assets, will be turned over to a new group to work them out for the benefit of the depositors and creditors and shareholders of Crown Trust Co.

Mr. Conway: Fine. I just wanted to be sure. So the working out begins with the idea that the soft assets will be hacked off or will be carved off in the first instance and they will not be part of a working-out arrangement.

Mr. Biddell: That is correct.

Mr. Roy: I have a supplementary. Mr. Biddell, you may have been asked this question before. When you met the Liberal caucus last week, we discussed the urgency of this situation. You said you wanted to keep the buyers around and that is why you needed this legislation. No mention was made of this packaging of the soft and the hard assets. Was that just a slip-up?

We all came out with the view that one of the reasons you were afraid the buyers might scatter was because there was a component of good hard assets, and the soft assets that were not as good. That makes the package not quite as attractive as saying to the fellow, "We are leaving the soft assets with Rosenberg, and the buyer is going to pick up the hard assets."

I came out with the impression, if I may say so, that following that, you told the press something you hadn't told us. I just wondered whether this was-- You knew about this?

Mr. Biddell: I knew of the concept at that time. I answered, to the best of my ability, the questions that were put to me by your leader and the members of your caucus. Subsequently, when I was asked to meet with the press, they put some specific questions to me and, out of that, I told them what the concept was. Unfortunately, they didn't write it up very well and there were misconceptions as a result of the newspaper reports.

That concept has always been there; that the soft assets would be left behind, to be worked out by the registrar, or maybe subsequently by a liquidator--that would include the potential lawsuits with respect to those soft assets--and that the hard assets, the going-concern business, would be turned over to capable hands to work out for the benefit of the depositors and creditors and shareholders, but with that person or that company getting for his own benefit, down the way and gradually, the trust and estates business.

Mr. Roy: I understand that, and I can see the logic of doing it that way, but all my colleagues and I were left with the impression that part of the difficulty in interesting buyers in this package was that there were soft assets in there which would not make it that attractive to the buyer. I was left with the impression--I think all my colleagues were left with the impression--that one of the difficulties you had was getting a buyer interested in that whole package.

Mr. Biddell: I am sorry if I left you with that impression. I had no intention of doing so. Had I realized that you were gaining that impression, I would have done my best to straighten it out.

I put together this overall plan. It was one that met the tests insisted on by CDIC and we reached agreement on it. I certainly had it in mind when I met with you and I do apologize for having left you with an incorrect impression.

Mr. Roy: I have to admit to you that when I read that in the morning paper, I couldn't quite believe it, because I thought that changed the urgency of the legislation. I said: "Hell, the

buyers are not getting the soft assets; it's a more attractive package. What are we worrying about?"

Mr. Biddell: Then I really didn't do a good job with you and your associates in caucus. I didn't realize I left that impression, because the urgency has always been to deliver to the buyer what he really wants. The only thing he is interested in is the trust and estates business. I never proposed that he take the soft assets and try to worry about those. No one would be interested in that. The registrar has a job to do with respect to those and he is going to do it.

Mr. Roy: Just to follow up on Mr. Renwick's question, when he asked the minister about the possibility of setting up a company, your comment was on the government going into the trust business, but I thought what could be considered was having some sort of trustee look after the situation on a short-term basis to allow matters to cool off and to take control. You answered that no, that was not considered.

Did you not consider it because you felt you had a better chance of convincing the public and those investors to not pull their money out if you had a buyer with a reputation out there, rather than having the government operate the process?

Mr. Biddell: That is exactly true. The other factor is that many of the private sector companies in the trust and estates type of business--the corporate trust, the transfer agency and so forth--don't want to deal with a government-controlled company. Had the minister seriously considered the government running this trust company, I fear that many of those very valuable agencies would have been lost.

Mr. Renwick: With Crown Trust gradually going out of business, what consideration has the government given to the protection of Crown's employees? What are the severance arrangements going to be for those who have to be severed, and all of those arrangements? Unless I am wrong, I don't think you can guarantee that everyone will be offered employment.

Mr. Biddell: Mr. Renwick, as I said earlier, I have been rather heavily involved in the process of trying to find someone who would take over this kind of thing. At the end of last week, Mr. Shuve, acting as the chief executive officer of Crown Trust, asked me if I would come along with Mr. Thompson to talk to his senior staff. We met with about 20 of them and they were greatly concerned about what was going to happen, not only to the company but to their jobs and those of the staff working under them. Mr. Thompson and I went out of our way and fairly reassured those people that that wasn't going to happen.

I do believe that if the people who are--if I may describe it--in the running to take over this company, are given an opportunity to take over this work-out, and then in the process acquire the trust and estates business, that the great majority of the Crown Trust employees will have employment in the future. Their pension rights will be respected and there won't be any real

concern about their severance arrangements whatsoever. I told them that because I fully believe it.

Mr. Cunningham: Are those people preferred shareholders?

Mr. Biddell: No, these are the employees.

Mr. Cunningham: Are any of them preferred shareholders?

Mr. Biddell: I don't know; I doubt it. I shouldn't say I doubt it, I just don't know.

Mr. Renwick: We have often had occasion in statutes here--I think we have one before us now, the Municipality of Metropolitan Toronto Act, where Exhibition Place is going to be set up. There is provision in the statute that Exhibition Place "must offer." That has often been in our statutes.

Is there any possibility, Mr. Minister, of putting into the statute provisions some protection for the employees on this transfer of the business? If the concept is that the eligible business will be transferred to someone on an agency-cum-owner basis over a period of time, is there any way in which the statute can give some assurance that they will be offered employment by the acceptable purchaser?

Hon. Mr. Elgie: I don't know how you would put that in a statute.

Mr. Renwick: We do, as you may know.

Hon. Mr. Elgie: Where did we do that?

Mr. Renwick: We did it in Hydro and we have done it in a number of organizations where there has been a statutory transfer.

10:20 p.m.

Mr. Biddell: That is provided for in the Ontario labour standards. Anyone who takes over a going concern will be subject to that, but notwithstanding that, and recognizing that as being the case, we put out the conditions to which any prospective group coming in to take this thing on would be bound. That was one of the very major conditions that was put out in a proposal to them.

Mr. Renwick: I may have overlooked it, but I do not think I saw it in Mr. Richardson's letter--

Mr. Biddell: Yes, well I think it was. I originally drafted that in the--

Mr. Macdonald: Item 2 of schedule A.

Hon. Mr. Elgie: "Confirm that your company would use its best efforts to employ as many employees as practical consistent with the efficient operation of Crown business and outline the manner in which any cost of termination of employees is to be handled."

Mr. Renwick: I recall reading that. That is a little short of a positive "best efforts" clause. It is snort of that.

Mr. Biddell: In evaluating the proposals that were submitted, that factor was very much up front.

Mr. Swart: In carving off the soft assets which would be liquidated in a period of time, what percentage of the employees of Crown Trust would be involved in that area? Can you get--

Mr. Biddell: None. We count on the employees as a group going with the business and assets to the work-out situation. We expect them to become an integral part of continuing to run the business for the new owner.

Mr. Swart: Would there not be numbers now of those employees who would be involved in administering these soft assets?

Mr. Biddell: Not at all. The soft assets are just half a dozen loan situations; the two big ones and a few relatively small loans. Those loans are made. The problem now is to try and get the money back. None of the current employees is involved in that. The situation is beyond their control now.

Mr. Swart: There would be some bookkeeping involved, but I accept what you are saying that it would be minimal.

Mr. Biddell: Minimal.

Mr. Conway: I take it that for all intents and purposes, a lot of the storefront component would cease. Am I right?

Mr. Biddell: The custodian component?

Hon. Mr. Elgie: The branch office?

Mr. Conway: Yes.

Mr. Biddell: Oh, no. This company has branch offices right across the country from Quebec to the west. I expect that most, if not all of those, will continue in place.

Mr. Conway: I take it that part of your judgement, in looking at the bids, is to see that some of those offices are not in competition in given communities with some of the bidders.

Mr. Biddell: That is right. The bidders took that into account.

Mr. Conway: The reason I raised the question is because of the healthy degree of scepticism around that there is just no bloody way that whoever takes over the Crown Trust Co. is going to be able to protect anything like a majority of the positions. Clearly that is not something we want to believe and we are very heartened to hear what you say.

I just wanted to underscore the importance to all the

members here that every effort be made to ensure to the greatest degree possible the employment--

Hon. Mr. Elgie: That is a very important element--

Mr. Biddell: It would be, at the very best, unkind, and at the very worst, fraudulent for me to have said to the employees what I said last week if I had real concerns that the majority of their jobs were going to disappear.

Mr. Conway: I was not aware on Friday that you had given that undertaking--

Mr. Biddell: It was not an undertaking. It was a confidence expressed by me based on what I know of what the bidders involved intend.

Mr. Conway: I appreciate that clarification. It is something we are going to watch very carefully. It is a very important matter.

Mr. Chairman: Mr. Renwick, there is a little bit of talk here about how soon we can possibly get started on clause by clause.

Mr. Renwick: I would think tomorrow.

Mr. Chairman: Can we finish up the non clause by clause tonight?

Mr. Renwick: As far as I am concerned, I haven't got very much more to ask. I am just trying to clarify some things in my own mind. This will be repetitious because Mr. Biddell did go over it earlier. I want to understand what will happen to the company now called Crown Trust Co. when the registrar enters into this agency-cum-sale agreement. That part of it is on the way toward accomplishing the purposes of the government. Crown Trust is left with the registrar still in control of it.

Then we went from the registrar to CDIC to a liquidator to the ultimate protection, whatever it may be, of the preferred shareholders, and then, presumably, to the common shareholders, with the name changed to something else if they want to carry it on. Can you go over that a little more carefully for me? The remnants of the third mortgages are involved in that. I do not understand that part of it. I think the other part of it is relatively simple. I do not understand the working out of the residual part of Crown Trust.

Mr. Biddell: The soft assets--those are the ones listed on the top of page 10 on your report.

Mr. Renwick: The ones that are ineligible?

Mr. Biddell: Yes. They total \$132.2 million at face value and they will be left in Crown Trust Co. Everything else--all the other assets--are under the control of the registrar and he will continue his efforts to try to realize on those soft

assets. The group that takes over the rest of the business will not be involved in that exercise.

There will be funds coming back to Crown Trust Co. There will be some funds flowing back from the group that takes over, as they work out those assets. We are not certain how much there will be, but we hope there will be something. To that will be added whatever the registrar manages to eke out of the soft assets. The total amount realized will then be used to pay off CDIC, because it will have a substantial claim against the soft assets. If there is enough to pay them off, it will go to the preferred shareholders.

As to the mechanics, Crown Trust Co. will continue to exist. Its name may well be changed, because the company taking over will probably want the Crown Trust name, but the corporation will exist there under the control of the registrar. It may be, at some stage, that the registrar will elect to step out and have Crown Trust put into liquidation and appoint a liquidator in his stead, to continue to work out the soft assets. Whether and how soon that will happen, we cannot say at this stage.

When the liquidation is all through, if the soft assets have all been realized, CDIC has been paid out, and the preferred shareholders have been paid out, then whatever is left would go back to the common shareholders, but only after those who rank ahead of them have been completely taken care of.

Mr. Macdonald: Then they would no longer have a licence.

Mr. Renwick: They will not have a licence the day they enter into the agreement, presumably.

Mr. Macdonald: I think it is important to remember that as long as the registrar has the arrangement that involves an agency, but when that terminates--

Mr. Renwick: Is that evolution going to take a long time?

Mr. Macdonald: It's not predictable, precisely.

Mr. Renwick: The proceedings under the third mortgage now held by the registrar are going to commence almost immediately--

Mr. Macdonald: One would expect so.

Mr. Renwick: --to take whatever remedies are available in a very complex situation?

Mr. Macdonald: That is correct.

Mr. Renwick: My last question to the minister: when are we going to hear something about Greymac and Seaway?

Hon. Mr. Elgie: We are still anxiously pressing for and awaiting those reports and the moment we get them, digest them,

and make decisions, I will report to the House. We really do not have them yet.

Mr. Renwick: Have you any idea when? There must be a number of depositors with those companies out there who are nearly beside themselves, let alone the employees of those companies.

Mr. Macdonald: I can tell you, Mr. Renwick, that our firm has been asked to recommend a course of action to the minister in conjunction with Mr. Biddell, and I have to tell you, quite frankly, up until now we have been talking about soft assets.

We feel we are still operating on somewhat soft information and we do not propose to move forward until we have a sufficient measure of confidence in the information. When we do move we want to have as comprehensive a report as possible.

We do not like the length of time it has taken or the uncertainty at all, but we feel that we are still better to say nothing until we can say everything, instead of having a dribs-and-drabs situation in which we might have to retreat from things we had said.

Mr. Chairman: Thank you. Is there any understanding about clause by clause? Some people may not be available tomorrow.

Hon. Mr. Elgie: I would appreciate it if we could settle that, because there are some people who have some things they would like to get into. It is my understanding that we are starting clause by clause immediately.

Mr. Conway: It is our intention to come here tomorrow. We have tabled our amendments. We can even supply for the members of the New Democratic Party and the members of the Conservative Party some background notes that will expedite the discussion. We will be happy to begin that process--

Mr. Macdonald: I thought you were going to supply amendments. That is why I smiled.

Mr. Conway: I am sorry, no. I can assure you we have a hard enough time with our own. We, as a caucus, are quite prepared to come early tomorrow and to begin immediately to deal with the thing.

Mr. Renwick: After routine proceedings tomorrow.

Interjection: Is that agreeable to you too?

Mr. Roy: Then what, do we sit tomorrow night?

Mr. Chairman: I understand that authority was going to be given by the House to meet tomorrow afternoon following routine proceedings and tomorrow evening, if necessary. It is my understanding that was going to be done and I have to assume it has been done.

The committee adjourned at 10:33 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CROWN TRUST COMPANY ACT

TUESDAY, FEBRUARY 1, 1983

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
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Breithaupt, J. R. (Kitchener L)
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Renwick, J. A. (Riverdale NDP)
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Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitutions:

Conway, S. G. (Renfrew North L) for Mr. Breithaupt
Roy, A. J. (Ottawa East L) for Mr. Elston

Also taking part:

Allen, R. (Hamilton West NDP)
Cunningham, E. G. (Wentworth North L)
Elgie, Hon. R. G., Minister of Consumer and Commercial Relations
(York East PC)
Reid, T. P. (Rainy River L-Lab.)

Clerk: Arnott, D.

Assisting the committee:

Revell, D. L., Legislative Counsel

From the Ministry of Consumer and Commercial Relations:

Biddell, J., Adviser

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Tuesday February 1, 1983

The committee met at 3:33 p.m. in room 151.

CROWN TRUST COMPANY ACT
(concluded)

Resuming consideration of Bill 215, An Act respecting Crown Trust Company.

Mr. Chairman: A quorum is in place. I believe when we ended up last night, we were going to commence clause by clause. The Progressive Conservative and Liberal amendments were previously tabled, if I may say, and there is one at hand that has just come in from Mr. Renwick, a new section 4a. You might put that in order.

I have no amendments in front of me until section 3. Are there any amendments to sections 1 and 2?

Sections 1 and 2, inclusive, agreed to.

On section 3:

Mr. Conway: Mr. Chairman, if I could, I'm going to beg the indulgence of the committee. We have a number of amendments on section 3 and I think everyone has a package of those amendments. There is a technical problem here with dealing with these in order. I would like to, if I could, deal with the third amendment first.

Mr. Chairman: That is the one that starts out with (1)(a) and (1)(b) for distinguishing purposes. You are moving that, Mr. Conway?

Mr. Conway: Yes, I would, sir.

Mr. Revell: Sorry to interrupt. There is a typographical error. A revised draft of this was sent down to the Liberal research office. I don't know whether Mr. Conway received it. In the fourth line where it says subsection (3), that should be (1)(b).

Mr. Chairman: Mr. Conway moves that section 3 of the bill be amended by adding thereto the following subsections:

(1)(a) The registrar shall not, in the exercise of the powers conferred by clause (1)(b), abridge in any way without the authorization of the Supreme Court obtained under subsection (1)(b) the rights to which the sharenolders of Crown Trust Co. may be entitled under the Loan and Trust Corporations Act or otherwise.

(1)(b) The Supreme Court may by order authorize the registrar to abridge, in the exercise of the powers conferred by clause (1)(b), the rights to which the shareholders of Crown Trust Co. may be entitled under the Loan and Trust Corporations Act or otherwise if the registrar satisfies the court, upon summary application, that the exercise of the powers is necessary to further purpose of this act.

(1)(c) A shareholder of Crown Trust Co. may take any action that is,

(i) necessary and incidental to the preservation of his or her rights as a shareholder; or

(ii) permitted by sections 135 to 145 of the Loan and Trust Corporations Act.

Mr. Chairman: Would you carry on and explain, Mr. Conway?

Mr. Conway: My colleagues and I are, in this respect, proposing to limit to some degree the extraordinary powers that this section of this act affords the registrar.

It has been commented upon on a number of occasions by my colleagues--I'm thinking particularly of the interventions made during the second reading debate by the members for Kitchener (Mr. Breithaupt) and Ottawa East (Mr. Roy), to name two--that we are concerned that the powers of the registrar as set out in this section of this legislation, and reinforced elsewhere, are quite exceptional.

They do not have any control, any limiting consideration. We would move in this respect with this section to allow the Supreme Court to authorize the registrar on his summary application to the court to abridge the shareholders' rights. In other words, there will be a referral to the Supreme Court to counterbalance the powers that are vested in the registrar.

We feel that by going this route we can provide some protection to the shareholders. We place upon the registrar an onus, a positive responsibility to justify to the court his abridgement of the property rights of the affected shareholders.

We want, as well, in this section to allow the shareholder to be able to take such court action in order to preserve the shareholder rights as set out in sections 134 to 145 of the Loan and Trust Corporations Act.

As we have indicated before, it is an opportunity to provide some court review of the very exceptional powers with respect to property rights of many individuals in respect of this particular bill. We want to submit this to you, sir, and to the minister and the government members as a reasonable step to build in some due process into this legislation. I know my colleagues, the legal members for Yorkview (Mr. Spensieri) and Ottawa East (Mr. Roy), have some additional comments they would like to make.

3:40 p.m.

Mr. Roy: The proposal made by my colleague from Renfrew North (Mr. Conway) is going to be a continuing theme of the approach of my colleagues and I on this legislation. I will just put the matters into context because, as my colleague from Renfrew North has pointed out, there are a number of other amendments. We hope to introduce what the Americans call due process and we call the rule of law into this legislation.

Let's put things into context here. We have legislation which many of us who have been around this place for some time have never quite seen before. These are extraordinary circumstances which require extraordinary measures. We understand that. We understand as well--and that's why we've been as co-operative as we have over the last number of months--that expediency and urgency are important issues in this whole process.

When we look at the whole context of this case, we have a situation where the minister and his advisers and so on have felt that confiscation of this property involving this particular trust company was essential. That's what it is. Let's call it what it is. It is basically the takeover, the confiscation of this particular property without any form of compensation.

The minister has provided evidence, and there appears to be evidence to support this approach. However, the process works in this way: the government in all the circumstances involved takes over the property of an individual or individuals in this province. Then there is a process whereby--we have been told what the evidence is--the property is going to be parcelled. There are going to be what are called hard assets and soft assets to be divided up. They hope, as I understand the process, that a buyer is going to be found for what are called the hard assets, and the owners and shareholders are going to be left with the soft assets.

That whole process, the process of confiscation, parcelling this thing, is in a sense quite radical. You have to understand these are quite widesweeping powers that we are giving to the registrar in this legislation.

Over and above this, the government and those proposing this legislation are, in fact, eliminating the rule of law in the whole process. As I understand it, if we take the bill as you have proposed it, you are saying basically that we have the right to confiscate your property. We then, after the property is confiscated, have a right to parcel it off, let you keep what we decide you should keep, sell off what we decide should be sold off and you have no recourse. You not only don't have any compensation, but there is no recourse by the owners and shareholders or by anybody else under this legislation.

With the amendments, and I have looked at the amendments briefly suggested by the minister, the only way anything is going to get reviewed is if there is some challenge to the good faith or to the propriety of the actions of the registrar at a particular level. Subsection 10(2) makes a provision that one can't review

anything else. This particular section, section 3, again gives widesweeping powers to the registrar to go ahead and do a variety of things in spite of the existing legislation.

The continuing theme of what we are going to be doing and proposing basically in these amendments is that we would feel a lot better about this very widesweeping legislation if the rule of law existed in the process, if there was a process whereby somebody who wants an accounting of what has taken place here existed would be able to get it. Under the existing legislation, you cannot even get an accounting, never mind challenge a sale, a transfer or anything else.

I and my colleagues are saying that we would feel a lot better about the process--It's bad enough that we are going along with a very radical process, but worst of all is that there is no way to review or challenge any of these actions by anyone. What we're saying basically--and we are starting with section 3--is if the registrar is going to do this and that, why doesn't he apply to the Supreme Court in a summary fashion and get the approval of the court? What are we afraid of? Why are we afraid of the court or due process or the rule of law to scrutinize what has taken place in this case?

That is what we are starting with in section 3 and that is the purpose of this particular amendment. We will have other amendments which are obviously down the road and, it is hoped, will be accepted by the government because many of us will sleep a lot better knowing this, not that we don't have confidence in the minister and his officials and so on.

Hon. Mr. Elgie: I shall make a note of it.

Mr. Roy: You had better. You are honourable people acting in good faith. You are saying that you are doing--

Interjections.

Mr. Swart: I cannot get my feet off the floor.

Interjection: That is a bit much.

Mr. Roy: You have the satisfaction of knowing that I am not talking about you, Mel, so don't worry about it.

I am saying to the minister that if you're acting in good faith and you are not afraid of the actions you have taken, why is it that you avoid the rule of law and court scrutiny for these widesweeping powers? The only answer I have ever had from the minister is that he wants clear title. For that reason I understand why he does not want the Bulk Sales Act to apply. All this other legislation, however, I frankly do not understand.

This is the first amendment in a continuing series of amendments which, it is hoped, will bring the rule of law into this process. Some of us at least thought we were in a democratic society, whereby we respected democratic freedoms and liberties. It was not too long ago, only a year ago, that we accepted a

charter. I know that property rights are not in the charter. Nevertheless, I think, given the spirit in which we generally operate in this province, I see no justification why, in this amendment, the registrar should not be obliged to go and justify his actions before the Supreme Court of Ontario.

Mr. Spensieri: I am certain that the minister and his advisers will counter that this particular amendment will allow a most undeserving group of people, the common shareholders, to get their foot in the door and to provide some procedural roadblocks to what will be the legitimate acts or actions of the registrar carried out in furtherance of this act.

I think that is a risk we must be prepared to face. Presumably, when the registrar makes his summary application, a notice will go out to all classes of shareholders, the common, the class A and the class B preferred. Rosenberg and associates will, of course, get notice of the summary application too. It's also quite conceivable that they may have some styling tactics up their sleeve or they may seek clarification without an altogether honourable intent.

At the same time, when we talk about shareholders, we must remember those \$20 million injected by those unsuspecting souls that Mr. Wallis King so vividly described yesterday. These are individuals who, in the normal course, and even in the best of times when affairs are being run in a business as usual fashion, will have little or no notice of administrative or substantive decisions being taken by the so-called management team.

It seems to me that, when we are dealing with an exceptional set of circumstances--not as business as usual, but break-up in the most administrative and summary fashion--this preferred class of shareholders ought, at least, not only to receive notice but also to be present and make representations and perhaps scrutinize, in a very legitimate and very self-interested as well as public-interest way, the administrative steps that are being taken by the registrar in furtherance of the take-out, as Mr. Biddell typifies the transaction.

3:50 p.m.

It seems to me that, at the very least, we ought to provide this notice and procedural safeguard requirement and opportunity for intervention by the shareholders so that most of the time no steps will be taken, at least without their knowledge and informed consent, in a way which is consistent with the requirement. It is, I think, supreme in our law, that no one gets deprived of anything until he at least has had notice and a chance to participate in the proceedings.

For that reason I would urge that this very important procedural safeguard be built into this legislation so that it at least mitigates some of the confiscatory aspects.

Hon. Mr. Elgie: May I just say a few words that my colleagues may wish to add to. Let me say first off that I look on this, and so does the government, in the manner of a serious problem facing us, to which we are endeavouring to find the solution.

There is in existence in present legislation a quite legitimate route to winding up that allows the liquidation of the assets. The result of that, as you have heard, would be losses to the depositors, loss of jobs, increased payout by CDIC, and nothing at all and no possibility of anything for shareholders. It is all quite legitimate and all quite in place.

Our attempt has been to try to find an alternative route which gave depositors security, which reduced the losses to be paid by CDIC, which ensured continuing employment and, above all, which gave the preferred shareholders the only option and the only opportunity they have to recover anything.

I don't say this in any cynical way, but when I hear talk of the rule of the law, surely that means one must do things by a lawful process. This act in itself creates the legal basis and satisfies the rule of law. I have not heard anyone stand up and disagree in any serious way to date with the Attorney General's view that we are acting within constitutional rights. Indeed, others who are said to be knowledgeable in constitutional law have said the same thing. So I say to you that an act of the Legislature, properly passed, cannot offend the rule of law, is in keeping with the democratic process and is subject to review by the electorate at some future stage of the game.

That doesn't mean that all of us wouldn't rather have other options, but the government is faced with the reality of certain conditions that must be met if we are to achieve the goals we set out to achieve. Those conditions, you all recall, are that there is a requirement for a significant infusion of working capital by CDIC. There is the need for an assurance of the transfer of title--perhaps initially on a management basis and later on a more permanent basis--which is not contestable and which cannot be the subject of contest. In the absence of that, there is no protection for the depositor other than the other option, the one which causes a loss.

So I say to you that this amendment you are proposing goes to the very heart of the transaction. It will result in no greater security for depositors. For that reason, on my behalf, and my colleagues can speak for themselves, I cannot support this amendment.

Mr. Swart: I have to say that I am somewhat confused by the amendment we have before us. In this party we oppose the legislation for the reasons given in second reading in the Legislature, and we have not changed our mind in regard to that.

It would seem that this amendment we have before us would be as effective in killing the legislation as actually to vote against it. In fact, it seems to me tremendously impractical. If there is a need for urgency in this whole matter, this amendment would just bog it down to the point where you couldn't move, and it could be months and years before you could actually deal with Crown Trust and with the assets of Crown Trust.

I looked up the sections 135 and 145 of the Loan and Trust Corporations Act, and I believe they deal largely with the disposal or the sale of the shares. To go through the courts would seem as, I have already said, to bog things down. I do not think we can have it both ways.

We were opposed to the legislation in general and we voted against it. If I vote for this amendment, I think I am just making this move completely impractical. It would be putting the government--I don't mind putting them in an invidious position--but it would just nullify the whole purpose of what the government is trying to do. Quite frankly, I would rather vote against the bill for all the reasons I have said than try to insert into the bill the kind of proposals which are impractical. If we need the legislation that is before us at all--there are arguments pro and con with what has gone on in the past and what may result from it--then I don't think we can pass this amendment.

Mr. Roy: It's unfortunate that Mr. Swart does not understand the amendment. The amendment in no way is intended to delay the process. I am sure that some of these summary applications--and they go on every day before the Supreme Court--as my colleague Mr. Spensieri has mentioned are very expeditious, and I am very surprised that my colleague Mr. Swart, does not understand.

It's one thing to oppose legislation and another to realize that the government can pass that legislation with their majority. However, even though you oppose legislation, there is such a process as making it better. I have seen bill after bill that has been opposed by the NDP to which they have subsequently brought forward amendments to try to make the legislation better.

Your function here as an opposition party would be meaningless if all we were asked to do was vote in favour or against and never propose amendments. In fact, this afternoon, you have contradicted your actions and what you were saying on a regular basis.

I want to say this to the minister about the rule of law in the constitution and so on. There seems to be some suggestion on the part of this minister that if legislation is passed in a democratic fashion in this assembly then it is all right. Let me give you an example. If you decided tomorrow to increase the sales tax by 25 per cent you have the power to do it. It is legal and you have the majority to ram it through, but that doesn't mean to say that it is fair or just towards the citizens of Ontario. That is what we are trying to say to you in this.

The fact that the Attorney General of Ontario has stood up and said he is satisfied that it is not against the constitution is not infallibility. Infallibility is limited to very few individuals in this world, and the Attorney General has proven through past experience that he, unfortunately, is not one of them.

The last time the Attorney General (Mr. McMurtry) and many of us had a disagreement we went before the Supreme Court of

Canada on wage and price controls in 1976 or 1977, I think it was, and the poor Attorney General ended up on the losing side. I just point out that I take with some measure of prudence advice from the Attorney General.

4 p.m.

Hon. Mr. Elgie: No remedy appeared in the Constitution --

Mr. Roy: I just say to you simply it is true that there is a basic weakness in our Constitution involving property rights, but I still say to you that the principle is this. You have an unusual situation requiring unusual measures and draconian legislation, and why you would proceed, in the light of all this, to avoid all scrutiny by the rule of law in the courts is something I do not quite understand.

Anyway, I would suggest to my colleagues that this is an important principle that we should not take out of this bill and that you accept our amendment.

Mr. Brandt: Mr. Chairman, I am going to have a question but I have some difficulty with the Liberal amendment, particularly in the light of the third paragraph of the letter we have from Canada Deposit Insurance Corp., where they make it very clear that they require certain things of the province to act and to act in an expeditious fashion, if we are to protect the depositors and also the normal trade creditors in this whole transaction.

In my view, unless I am mistaken, the way I am reading the amendment that is being proposed, there are those potential delays that were alluded to by Mr. Swart in his comments earlier, and any of those potential delays in my view would simply weaken the position of Crown Trust through the passage of time and therefore dilute the asset base and the liquidity of the company to the point where the very people your amendment proposes to assist would, in fact, be doing exactly the opposite. It would deteriorate their position to a very real extent.

The word "draconian" has been used frequently by my colleague and by others in the House in referring to this legislation. I suppose in the sense that it is unique and unusual and perhaps unprecedented legislation for this Legislature, I would agree with that, but it is draconian only in the sense that it is the sort of thing that the Liberal Party probably would have recommended strongly that we do in other circumstances that have come up in the past.

I am thinking of Re-Mor, Astra and other circumstances where a situation developed where perhaps the depositors could have been protected in the fashion that is being proposed here. I think the minister has made a good case for why we have to move very quickly on this and, as well, that the best interests of those people that you are attempting to protect with your amendment are, in fact, protected with Bill 215 in the government legislation.

Mr. Eves: I would agree with the comments or sentiments echoed by my colleague, Mr. Brandt. I think we have to understand that the primary or underlying principle here in this legislation is to enable the government to deal with the assets of Crown Trust by a relatively expeditious method. I think that any potential challenges through the court system could have the effect of destroying the sale. I agree with my friend Mr. Swart on that.

I just ask you to be practical. What prudent buyer would purchase the assets of Crown under those set of circumstances where the title to the assets could be called into question? While delay may not be the purpose nor the intent of the amendment, and I am sure it is not, that is in all probability what the effect of the amendment would be.

Mr. Renwick: I find it difficult to be persuaded to support the amendment. It seems to me that the conceptions which are contained in the amendment are so contrary to the purposes of the bill that it shows to my mind a considerable, well-meaning but innate confusion in the mind of the member for Renfrew North (Mr. Conway) who proposed the bill.

Mr. Conway: I want to just correct the record, Mr. Chairman. Bill 215 is not my proposition.

Mr. Renwick: The amendment to the bill proposed by the member for Renfrew North.

I think the starting point is that the registrar is in possession and control of the assets by action of the government under the amendment which was passed by the assembly in December. Whether one likes it or doesn't like it, it is, at least in my judgement, not attackable on those grounds. To my knowledge, it has not yet been attacked on the grounds of the constitutionality of the amendment we passed in December under which the registrar is in possession and control.

The first point of confusion in the amendment, to my mind, is the reference that a shareholder of Crown Trust Co. may take any action that is permitted by sections 135 to 145 of the Loan and Trust Corporations Act, and, of course, that deals with the question of voluntary amalgamation by two companies in accordance with well-drafted amendments, ultimately requiring the approval of the Lieutenant Governor in Council.

To indicate now that a shareholder in a totally different situation would be able to state that this transaction could not go through unless there was a condition precedent of a shareholders' meeting in each of the two companies would seem to me to be not the transaction we are talking about. We are not talking about an amalgamation in any sense at all. In fact, what we are talking about is a specific sale of assets and no amalgamation of the two companies. So I find it difficult to accept that particular provision of the amendment.

With respect to the phrase "necessary and incidental to the preservation of his or her rights as a sharenolder," I think any shareholder of Crown Trust may take today any action that is necessary and incidental to the preservation of nis or ner rights as a shareholder in the court, and the court then would have to look at the bill to determine the extent and degree to which we have abridged those rights.

The extent and degree to which we have abridged those rights is to vest in the registrar, under the amendment which we passed last fall, all of the rights of the shareholders. I don't think that one can attack the bill before us because it makes that provision. You can't, on the one hand, then say that the registrar is vested with those rights under Bill 215, which specifically so provides in section 3 of the bill: "The registrar has the sole and exclusive right to exercise all powers and authority of Crown Trust Co. and its officers, directors and shareholders; and no officer, director or shareholder of Crown Trust Co. may exercise any power or authority in that capacity."

If this bill is passed, it seems to me to be impossible to say that a sharenolder, going to the court, would be in a position to subject the court with making the decision that we have to make. In a funny sense it would be an abdication to the court, and the hazy and confusing direction to the court seems to me to be one which asks the court to pass upon the merit, or otherwise, social, political and economic, of the course which we are taking, and the court would be extremely loath to exercise that kind of power.

I know it would be nice, I assume, for the government and for any member of the assembly who wishes to support this bill to be able to abdicate that way and say: "It is not really our problem. If the shareholders are going to be affected in their rights in favour of the creditors, we will leave that up to the court because we don't have the political courage to face the question." That appears to me to be inherent in the amendment which is before us. I would find that an extremely difficult proposition.

4:10 p.m.

I suppose what we are really being asked to say is, "Snall we give the court the power to say to the registrar, 'You must satisfy us, the court, on summary application that what you are doing is necessary to further the purposes of this act.'"

It is not that that power is being excluded, because I welcome the amendment which has been tabled--I believe an amendment proposed by the minister--wnich will clearly indicate that if the registrar acts in any way outside the scope of the powers which are given to him, or acts in any way in bad faith, or does not act as a reasonable person in the circumstances would act, then it would be possible for an application to be taken in the court.

I assume that if an allegation were made in a proper sense when that provision is inserted in the act, if there is any appearance of impropriety or illegality or bad faith on the part of the registrar, then the moment the agreement is signed, I assume that an injunction could be obtained until such time as a decision could be made on such an application.

I think that is a much more clear and direct way to deal with the question of snareholders' rights than to substitute the court for the kind of difficult decision which has to be made. I, therefore, find that if one accepts the general framework of the bill, then this amendment, to my mind, appears to be both ill-advised and confusing and, while well-intentioned undoubtedly, it is an endeavour to shift responsibility which ultimately rests with the government and with the majority support of the government in the assembly.

Mr. Brandt: I have a brief question I had intended asking earlier, Mr. Chairman.

In connection with the proposed amendment, and recognizing the position of the CDIC, I wonder if the minister could comment as to whether or not this amendment would place in jeopardy the proposal of CDIC and their potential involvement in the safeguarding of the investors.

Hon. Mr. Elgie: Yes.

Mr. Brandt: That was essentially what I wanted to find out. I think that throws a very direct and a very specific light on this thing, that you can't have it both ways; your favourite colour cannot be plaid in this particular instance. You have to make some hard choices. I think the hard choice is whether you are, in fact, going to protect the investors or not. I think in this instance the legislation proposed does exactly that.

Mr. Conway: I just want to say, Mr. Chairman, those hard choices were revealed to some degree in the vote on second reading. I think that indicated the difference of opinion that is extant in this building with respect to the various sides of this particular issue.

I was particularly interested to follow up the question of Mr. Brandt by asking in respect of his point as to what it is that specifically jeopardizes CDIC's deal, whether or not he could be more specific in highlighting those portions of the amendment now before him which do that. Am I right in assuming that it is clause 3(1)(c) that does that, much more so than clauses (a) and (b)?

Hon. Mr. Elgie: Mr. Chairman, it is the whole thing. First of all, clause 3(1)(a) says the registrar can't do anything without the court having the right to review an application, 3(1)(b) gives the court the right to make orders with respect to it, and 3(1)(c) gives the shareholders the right to exercise certain rights under the Loan and Trust Corporations Act. All of that leads to the potential--and, I tell you now, there are actions with respect to judicial review, with respect to the charter, before the courts already.

I am saying to you that, in my mind, there is no doubt that there would be such an application and that it would not end summarily; it would be followed by an appeal process. Those who don't believe that must think that the tooth fairy really is coming tonight because it will happen. That brings to an end the possibility of the transfer of Crown Trust as a business on the arrangements outlined yesterday and that ends the possibility of total security for depositors.

Mr. Conway: I just want to indicate to the member for Sarnia (Mr. Brandt) and his colleagues that I feel more and more akin to Sir Anthony Kershaw, who with his colleagues is literally being asked to sit there, hold his nose and allow this very exceptional piece of legislation to pass. I am not going to belabour the point, but my colleagues and I have tried to indicate that this is such an exceptional piece of legislation and a piece of legislation that seems to turn on the principle that a laudable end or a necessary end justifies just about any means. I simply indicate that it is our view that we had hoped some kind of protection with respect to due process, the rule of law, could be built into this legislation which we find so very distasteful and disagreeable.

Hon. Mr. Elgie: Let me just say I understand your intentions and I do not criticize them, I honestly do not, but I think you also will appreciate that in the case of a winding up and a liquidator, I am sure you understand that that liquidator, in the face of a perishing and eroding asset which that liquidator is in charge of on behalf of those who are beneficial, does have the power to sell that asset without reference to the court.

Mr. Spensieri: He has totally reviewed that.

Hon. Mr. Elgie: I am just telling you that he does have the power to do it without prior review. What we are saying to you is we do not want to go any route which causes those losses to depositors and others and deprives shareholders of the only option that is available to them.

Mr. Renwick: There is the other aspect to it. I have tried to indicate the legal confusion as I saw it in the proposal which is before us under the amendment, but the bill as it is drafted and the format that is drafted is based on the position which the government has taken, namely, that the government of Ontario is not going to put up a cent of money to support the depositors or the trade creditors of Crown Trust Co., nor is it going to extend the benefit of any guarantee to the depositors or trade creditors of Crown Trust Co., nor is it going to give any assurance to those standing in the fiduciary relationship with Crown Trust Co. That is the position of the government and that is the position on which we as a party on second reading of the bill divided with the government about.

We are now in committee where the government has not altered that position, has not made any gesture to give any protection to anybody and has said that the one party that is prepared to

provide the protection to fill that gap in protection is Canada Deposit Insurance Corp. Knowing that the government of Ontario is not going to stand behind this company, they have put the gun to the head of the government and of this committee by saying that they will do it, provided three conditions, each of which is entirely in their discretion, are met, and that is a very tough position for the government now to put this committee in.

4:20 p.m.

There is little doubt from what has been said that if a suitable, lawful basis does not exist for this transaction, and I emphasize not the lawful part but the suitable part, then Canada Deposit Insurance Corp. will be off the hook to provide those funds and, as the government has said, it will go by way of liquidation.

I do not happen to agree with the government's position. I have not agreed with it from the time the government took the position, but to now indicate that in the face of that and having provided no other alternative for the protection of the depositors, to then jeopardize that solution, sitting as we do in opposition, by the introduction of this amendment would be ill advised, impractical and most unwise. It shows an unbelievable lack of clarity about the difficulty of the position we were in.

Our position, as stated on second reading, is not altered by the fact that the government is not prepared to stand behind this company. CDIC has put up its conditions. They are right in the letter we got yesterday and they are entirely within the control of CDIC. Unfortunately, that is the position. For that reason, and because the government gives us no other choice on it, to jeopardize this course on which the government is irrevocably moving seems to me to be trying to have the worst of both worlds.

Mr. Spensieri: With all this talk of tooth fairies, I would like to ask Mr. Biddell for a moment, if it is possible, to put this amendment back in a more factual context. It seems to me that the first time we face the possibility of a registrar applying to the court in a summary way is the time when the decision is made to prefer one suitor over the others. That is the first stopping point where the registrar will have to pause and make an application in a summary way, which is returnable usually in about two days, as I am sure the chairman will appreciate, and the judge will be asked to confirm or not confirm that first pause, the choice of the suitor.

The next conceivable time where a registrar would have to apply is after a period of agency and after a period of agency dealing by this trust company when a decision is made to actually sell the hard assets on an outright basis, as Mr. Biddell was contemplating in his take-out. Once again, there is going to be a short little pause there and the court will be asked to review the application by the registrar. Does Mr. Biddell and his advisers and everyone else think that this kind of review once or twice along the course of this take-out really imposes that serious a burden on them as administrators and as quasi-liquidators, because that is really their role. They are just liquidators by another name, but basically they are liquidators with a view to some continuity.

Is that really an undue burden? Is it such an excessive burden and can we afford to saw off that inconvenience against the basic principle of affording the shareholders some method of participation? It is a technical question. Perhaps Mr. Biddell could answer whether he foresees, procedurally speaking and as a practical matter, such a degree of undue inconvenience that we should just throw out the whole baby with the bathwater. I am very concerned because it seems to me that it is nothing more than a fear of inconvenience which is prompting the ministry to take this hard line.

Hon. Mr. Elgie: Mr. Biddell, would you be prepared to respond to that question?

Mr. Biddell: Yes, Mr. Chairman. As many on the committee will know, I have had the responsibility for some 35 years up until very recently of operating the largest receivership and liquidating firm in Canada. We have had a great many transactions under receivership proceedings or under the Bankruptcy Act or the Winding-up Act in which we were subject to the directions of the court. We have sold many businesses and assets in companies in the course of our experience and we have never found the necessity to look to the court for approval of any such transaction a major burden.

In every one of those instances, however, and in all of the proceedings in which we act and under specific provisions in the Judicature Act, in the Winding Up Act and in the Bankruptcy Act, there is a provision where the trustee or the liquidator or the receiver is specifically empowered to sell wasting or perishable assets immediately without response to the court. When he makes such a sale, then no one can challenge it.

He can subsequently be challenged by the beneficiary or another party of interest in the court for having done so improperly or imprudently, but he has the authority under any of those proceedings to sell a perishable or wasting asset. That is exactly what we are dealing with here. It is a point I have been trying to make in my discussions with anyone on this subject.

We have a very wasting asset in the trust and estates business of Crown Trust. It is eroding every day. If we are put into a forum where we must go and ask the court for approval of the sale, I would be quite confident we would get approval very quickly on summary application or whatever, but we all know that once we get into the court we are subject to all the rules and procedures of the court, I would expect a challenge and an appeal some 13 or 14 days later from some of the shareholders' group or others, and if the court confirms it, I would expect that decision to be appealed.

What we would find in this circumstance--and what we are trying to dispose of is an asset that is quickly eroding, in my opinion--is that we would not succeed in our overall objective to get this thing under proper administration in a manner that we can protect the depositors.

Mr. Roy: I would just like to make this point, though, and I want to be clear with the minister. The alternative that was proposed by Mr. Biddell about the possibility in the actions, whether it is the Winding-up Act, the Judicature Act, or the Bankruptcy Act, is open for a court review. Under this statute it is not open. When Mr. Biddell was talking there seemed to be some suggestion on your part that somehow it is open under Bill 215 to challenge the registrar and to review some of his decisions. I challenge you that this is not the case.

Hon. Mr. Elgie: The amendment to section 10 does that, gives the opportunity to challenge whether he behaved in a reasonably--

Mr. Roy: Which amendment?

Hon. Mr. Elgie: The amendment that is in your hands, subsection 10(3), which says that he must show the diligence and skill that a reasonably prudent person would exercise in discharging the duties and responsibilities of the registrar in comparable circumstances, having regard to the public interest, the same responsibilities placed on directors of corporations under the Business Corporations Act.

Mr. Roy: Are you taking out subsection 10(2)?

Hon. Mr. Elgie: No. The transaction itself must be invalid or there is no sale.

Mr. Roy: That is where--

Hon. Mr. Elgie: But neither can the transaction Mr. Biddell is talking about be set aside. The actions of the liquidator, however, can be challenged but not set aside.

Mr. Roy: But you go further. You say that not only can it not be set aside, but it cannot even be reviewed at a court hearing in this particular case. The bill says "...be directed or otherwise reviewed by any court." You are going further than that.

Hon. Mr. Elgie: The sale cannot be reviewed, but the prudence and the reasonableness of the registrar can be.

Mr. Roy: That is why I am saying to you that you cannot have it both ways. You cannot prohibit court review on the one side, except in the very limited instance where you are saying, "Well, you'll be able to review the actions of the registrar to see if a reasonable person acting in similar circumstances under the pressure of the circumstances, etc., acted in good faith or not." We are saying that is much too narrow.

Mr. Renwick: He has to act in good faith.

Mr. Roy: Oh, sure. We are saying that is much too narrow and I am suggesting to the minister that what you are imposing in this particular statute, about even reviewing the actions of the registrar, is something far more narrow than some of the legislation Mr. Biddell is talking about.

I understand the difficulty of going to the courts to get some approval when you have a wasting asset, but we do not have very much alternative here. You are preventing review by the court in most other instances.

4:30 p.m.

Mr. Swart: The attack has been made by the member for Ottawa East (Mr. Roy) at the beginning and, not understanding this, it would appear that perhaps I have a better understanding of it than I thought myself at that time. I think it is perfectly obvious, from the various people who have spoken on this, that there is the likelihood there could be extensive delay if this amendment is passed.

What surprises me about this is that the Liberal Party would move this without putting in a companion section which would at least have given the guarantee, so the assets did not erode to that extent until all of these challenges at least were made.

It seems to me that what this amendment would do, if it was passed, would be simply to assure that the depositors' and the shareholders' assets would substantially erode, as said by my colleague and by myself earlier. It is the worst of all worlds.

Mr. Brandt: I am going to try to be helpful on this. The minister could perhaps put this in the proper context.

Just so that we can be perfectly clear on this point, my colleague Mr. Renwick used the term that the CDIC has in fact put a gun to the head of the committee. I will put it somewhat more lightly and perhaps somewhat more delicately than that. They are encouraging the committee to move in a certain direction.

As I am interpreting what CIDC is saying in their letter and in their direction to us, it is that if this amendment passed, they would withdraw their support. Is that not correct?

Hon. Mr. Elgie: What we are saying, and on behalf of them--and it is pretty clear in their letter--is that the mandate under which they operate, their act, is to pay to depositors up to the insured amounts, and they make take steps to reduce their losses.

In this case there is an asset that has a saleable value to it. To their mind, and to my mind, if the sale occurs in an expeditious fashion as an ongoing business with a value to a purchaser, their losses are reduced. They are therefore prepared to protect depositors and we, in this legislation, offer the only option there is in terms of shareholders.

It is their view, as Mr. Biddell has said and as Mr. Shuve and Mr. Macdonald have said, that there are serious concerns about the erosion of that estates, trust and agency business. Therefore, they are not prepared to continue with this offer unless this Legislature is prepared to move expeditiously to provide a title to that property that cannot be contested in court, because no purchaser is interested in it on those terms.

Mr. Brandt: That is very clear.

Mr. Conway: As long as everyone understands about what that does to the competence of this committee and this Legislature. It is an extraordinary request, one that I suppose, in the absence of a host of things, is made even more extraordinary.

I just hope that everyone in the room understands what we are being asked to do, and under what conditions, and that years down the road we shall all be happy to live with the consequences. It really makes of this Legislature at once a Star Chamber and a nullity. It is really quite extraordinary, but I am not going to take any more time.

Mr. Chairman: There being no further discussion, all those in favour of Mr. Conway's amending motion to section 3 will please raise their hands.

All those opposed please raise their hands. The motion fails three to eight.

Motion negatived.

Mr. Brandt: It is the same old game.

Mr. Conway: That renders my first two amendments--

Hon. Mr. Elgie: There are two amendments.

Interjections.

Mr. Chairman: The next two amendments, to clauses 3(1)(b) and 3(1)(c), are no longer relevant.

Mr. Conway: With the help of legislative counsel I want to deal with the next two amendments. If I can just indicate what they are, perhaps Mr. Revell can help us. There was a bit of a technical problem. We want to insert the word "reasonable" into subsection 3(2) and subsection 3(3).

Mr. Chairman: Mr. Conway moves that subsection 3(2) of the bill be amended by inserting after the word "such" in the eighth line the word "reasonable."

Hon. Mr. Elgie: There are two "such's" in the third line. If you mean the "such" that precedes the word "remuneration," then the government can accept that.

Mr. Mitchell: "...such reasonable remuneration"?

Mr. Conway: Yes, we want that to read, "...on such terms and conditions and for such reasonable remuneration..."

Mr. Chairman: After the second "such" in that line you want the word "reasonable"?

Mr. Conway: The reason for that is fairly straightforward. We simply want to provide a little tighter definition or some understanding of what is intended there. There have already been some discussions about some of the costs being passed on, some of the issues that were dealt with in the public press yesterday. We think that the act should have that kind of clarifying reference.

Mr. Chairman: Thank you. Is there any further discussion on that? Mr. Mitchell:

Mr. Mitchell: If that is what is being said, "such reasonable remuneration," I think we would be prepared to accept that.

Mr. Roy: Is that the going thing? I cannot believe it. Are you prepared to accept the word "reasonable"?

Interjections.

Mr. Chairman: All those in favour of Mr. Conway's motion to amend subsection 3(2), please raise your hands.

It is unanimous.

Motion agreed to.

Mr. Chairman: Mr. Conway, you have another one regarding subsection 3(3)?

Mr. Roy: Should you be crowding your luck in trying another?

Mr. Conway: The second in that section affects subsection 3(3).

Mr. Chairman: Mr. Conway moves that subsection 3(3) of the bill be amended by inserting before "remuneration" in the first line the word "reasonable." That should read: "any reasonable remuneration payable."

Mr. Conway: This is simply a follow-on from the other.

Mr. Renwick: I do not have any problem with the amendment. I have a question in connection with the expenses of the registrar and so on.

The section begins, "Without limiting the powers and authority of the registrar under section 159," and goes on to say "the expenses of the registrar may be payable out of the assets of Crown Trust." Section 159 provides that the expenses of the registrar in proceedings under clause 158(a), which is the section under which--

Hon. Mr. Elgie: But this is a separate bill.

Mr. Renwick: Yes, I understand. Does this mean that the expenses of the registrar are going to be payable by Crown Trust and there is going to be no levy on the other trust companies under subsection 159(6)?

Hon. Mr. Elgie: No. The payment for services under that will continue to be carried out as under section 159. The Crown Trust act does not deal with the registrar's activities in relation to the possession which he now has, through himself and through agents of the trust company. It relates to remuneration related to the agreement for management and to the other remuneration.

Mr. Renwick: Oh, that is helpful. Up until this act is passed I take it that the expenses of the registrar fall to be distributed amongst the other trust companies under subsection 159(6).

Hon. Mr. Elgie: That is correct.

Mr. Renwick: That is very interesting.

Mr. Chairman: Is that it, Mr. Renwick?

Mr. Renwick: That is very interesting. I am sure they will be delighted to make their contribution to that expense. As I understand it, the government of Ontario will bear no expense when this is all over, assuming the cash is there somewhere.

Hon. Mr. Elgie: The Morrison commission is under way, as you know.

Mr. Renwick: The Morrison commission will be the only expense to the ministry?

Hon. Mr. Elgie: To my present knowledge.

Mr. Renwick: All of the expenses incurred by the ministry in taking possession of the assets of these companies and taking control of them up to the date this comes into force, is a levy upon the industry?

4:40 p.m.

Hon. Mr. Elgie: From January 7, when possession was taken, for the activities that were performed on behalf of the registrar, there will be a levy on the industry.

Mr. Renwick: A levy on the whole industry?

Mr. Conway: Am I to assume that Mr. Macdonald and Mr. Biddell, for example, for the period of January 7 through the day this bill receives royal assent are a charge on the industry?

Hon. Mr. Elgie: No. The services of counsel and special advisers will be a charge to the ministry.

Mr. Conway: Growing out of all of this business, is there anybody else in that category? Just along the lines of Mr. Renwick's--

Hon. Mr. Elgie: I would have to clarify this, but maybe the advisory committee of five--I would have to check that out.

Mr. Renwick: I presume that at some point it would not be too much to ask you to give us an accounting of the expenses of this operation.

Hon. Mr. Elgie: At some point. I would not expect otherwise.

Mr. Chairman: We had better vote before Mr. Renwick has much more time to think.

All those in favour of Mr. Conway's amendment regarding subsection 3(3), please raise your hands.

It is unanimous.

Motion agreed to.

Mr. Conway: Then again, on section 3, we would add a new subsection 4.

Mr. Chairman: Mr. Conway moves that a new subsection 4 be added to section 3:

Any agreement entered into under section 2 shall be laid before the assembly by the Minister of Consumer and Commercial Relations, upon its approval by the Lieutenant Governor in Council, if the assembly is then in session, or if not, at the next ensuing session, and the agreement shall be deemed to be a statutory annual report for purposes of standing orders of the Legislative Assembly.

Mr. Conway: I think it is pretty obvious what we intend here. Given the exceptional circumstances in which this Legislature finds itself being asked to consider matters of very significant import and being told repeatedly that we cannot and, in some cases, we must not have information before we make a decision, we obviously want to ensure, as best we can, such provisions as will ensure that such agreements spoken of in this particular amendment are available to the Legislature, so that at that particular point they might be available for the scrutiny of the Legislature.

Mr. Mitchell: We really do not have a great degree of difficulty with the motion before us; however, we would only be able to support it if all the words following "session" were deleted. The document is effectively a public document, once tabled, and if you would be prepared to amend your motion to remove the words following "session," I think we could support the motion.

Mr. Chairman: Which "session" are you referring to?

Mr. Mitchell: In the fourth line, where it says, "at the next ensuing session and the agreement shall be deemed..." All that portion.

Mr. Chairman: The word "session" in the fourth last line?

Mr. Mitchell: That is right.

Mr. Spensieri: I would have thought that the single most important decision is the decision as to which acquiror to favour. We would have preferred that there be a judicial review of that particular single most important decision.

Failing that, it is absolutely essential that there be at least a political review of that decision, allowing the parties ample opportunity to comment on the wisdom or the bone fides or the business acumen of the decision on which acquiror to favour. Even in the diluted fashion proposed, it is still a very important safeguard to have at least the political opportunity to comment, once we have been deprived of the judicial opportunity to comment and to sanction.

For that reason, I think that even the diluted version, if it is the best we can get, is still better than nothing.

Mr. Swart: I am wondering why Mr. Mitchell would not reconsider his objection to that last part. I suggest there is not really that much difference. If you get that report to the Legislature, there are ways and means somehow or other--whether it's estimates or whatever the case may be--that you can get it into committee.

Mr. Mitchell: That's precisely the point. It's a public document, and the opportunities are there to raise questions on it in any event.

Mr. Swart: But this does give it some special status which perhaps might give the opportunity to have discussion on it prior to the estimates. It may be nine months down the road before you get into the estimates. If this becomes an annual report, it means there will be an opportunity to refer it if somebody wants to.

It's already been stated there is no judicial, or other, kind of review. The only kind of review that can be made is by a committee of the Legislature. If you find something in a report that you've tabled--something you really want to get at and ask some questions about--it may be six months or nine months before you can do that.

Why not leave this amendment as it is? I ask Mr. Mitchell to reconsider, because it does provide that opportunity which, I suggest, probably won't be used. However, the opportunity is there.

Mr. Conway: I would like to encourage matters along the lines suggested by my friend from Welland-Thorold in developing

the goodwill of the member for Carleton (Mr. Mitchell). It's clear what he endeavours to do by the amendment to the amendment in striking out those words. What it effectively does is eliminate a possibility whereby the particular public document about which there's now agreement can be referred to a committee of this assembly.

We all know what the Speaker has just told us about the interpretation of standing order 33(b). I can't help but conclude that the subamendment--if that's the right word--of the member for Carleton seeks to--

Interjection.

Mr. Spensieri: It's not a subamendment.

Mr. Mitchell: No, with respect, if you are prepared, Mr. Conway, to alter your motion and delete that portion, I have told you quite frankly that we can support it. It's as simple as that.

Mr. Conway: Obviously, given the iron heel of this majority, we don't really have much choice in these matters.

Mr. Mitchell: You are seeing nothing but co-operation. What are you talking about?

Mr. Conway: Co-operation on the margin, on the margin's margin.

Mr. Mitchell: I don't understand you. You will agree that it becomes a public document.

Mr. Roy: Don't you want it to go to a committee?

Mr. Conway: Yes, but the point that you seek to strike is the giving of ability to refer to a committee of this Legislature. Tomorrow will be the second anniversary when your colleague, the member for Burlington South (Mr. Kerr), joined a variety of other members in an interim report of this justice committee on the last fiasco, a fiasco which was not acted upon, which has helped create perhaps the grandest fiasco of all. It hurts us a little bit to know that's what's being precluded with the member for Carleton's suggestion.

If the member is not prepared--on behalf of his colleagues from Chatham-Kent (Mr. Watson), Sarnia (Mr. Brandt), Parry Sound (Mr. Eves) and Durham-York (Mr. Stevenson)--to amend his earlier statement, we have no choice but to buckle under the iron heel of the instructional majority.

Hon. Mr. Elgie: It sounds such a desperate situation. Why don't you leave the party and cross the floor?

Mr. Conway: That's how some of my friends opposite got to where they are. I won't want to follow that path nor do I want to embarrass the member for Sarnia. I want to say to the member for Carleton--

Interjections.

Mr. Chairman: Order.

Mr. Swart: Point of order.

I thought you were finished. I will bring my point of order after you are finished.

Mr. Conway: I'm just going to conclude by saying obviously we have no choice but to buckle under, if that's the only choice you're giving us. However, I think the member has a particularly attractive olive branch--

Mr. Swart: On a point of order Mr. Chairman, I think we should deal with this--I know what has been said, but why do we not deal with this in the normal procedure.

We have an amendment before us before us. If he doesn't like the last part of it, why doesn't he move an amendment to the amendment? What you are proposing--without moving an amendment to the amendment--puts us in the opposition in a somewhat difficult position.

That's normal procedure. You can delete that if you feel like it, and then we still at least have the first part left that we can all support

Mr. Mitchell: In doing so, at least speaking for myself, we were doing so in an attempt to be co-operative with the motions tabled by the member for Renfrew North and it's to that extent that I have suggested if he would be prepared to amend his motion by deleting certain words, then we could support it.

4:50 p.m.

Mr. Chairman: I believe Mr. Swart's suggestion is really the more regular way, whether it's an exact point of order that has to be followed, it is the more regular way to make a subamendment. Now, you aren't forced to make it, but it is a more regular routine procedure for a committee. I take it from the discussion so far Mr. Conway has said no, he is not prepared to do it. Therefore, I guess that ends it, unless you wish to place a subamendment.

Mr. Renwick: Would Mr. Mitchell consider the olive branch of stopping at the words "statutory annual report"?

Mr. Mitchell: I've made my position clear.

Mr. Conway: I don't think we have any choice, and in the interest of time I see the cement wall in front of me. I will be prepared to, in the interest of getting some small token of making this more public--it really makes one wonder why this place is so feared.

Mr. Roy: Why do you not want to send it before committee, Mr. Mitchell?

Mr. Mitchell: I think I have made my--

Mr. Watson: First thing you know you are going to deem everything.

Mr. Roy: No, no, but let me understand. We talked about how it is wide-sweeping legislation to face very difficult circumstances, and with your majority you will be able to get this legislation, which will, for all intents and purposes, not be reviewable by the courts, okay? That's the context of the process.

Even at that, as my colleague Mr. Spensieri has mentioned, some of these agreements will be very important, and I would have thought--given the situation and the fact that this is all going to be hindsight, we are going to be looking at these things after the fact--that you would give it about as wide a review after the fact as possible.

The logical way to review things is to have a report and be able to send it to committee. I don't quite understand, if you are not afraid of it being a public document and everything else, why you stop there and say, "It's a public document but we don't want a committee to look at it."

Mr. Mitchell: In response, Mr. Roy, I have said it is a public document. You will have all kinds of opportunities to raise the whole issue, and I just feel that in my opinion those words--

Mr. Roy: In question period?

Mr. Swart: I just want to make one more pitch if I can, because I think the member for Chatham-Kent gave the real reason why the government members do not want to go along with this. It is because they are afraid that there will be precedents set and every report will be considered an annual report.

If that is the real fear of the members over there, and I suspect it is, I just want to pick up on what other people have said before, including myself. This is an exceptional piece of legislation. It probably will not happen again in this decade. Surely we can have perhaps a further exception from normal procedures so that this can be considered an annual report. It is certainly not my intent to set a precedent.

With that, I am wondering if there might be some reconsideration.

Hon. Mr. Elgie: The member for Brant-Oxford-Norfolk (Mr. Nixon) should have had this power--

Mr. Conway: I do not see any indication from the parliamentary assistant to the minister under review and under question and under pressure. Quite frankly I think his colleagues, all of whom are parliamentary assistants, so therefore of the ministry--with the exception of one committee chairman who I see sitting opposite--have interests which are clearly with the protection of the executive branch. I understand that, however much I might regret it, so I will amend the resolution in such a

way as to make it more appealing to the lackeys of the executive council by accommodating the parliamentary assistant in such a way as to strike out those words after--

Mr. Spensieri: The executive versus the olive branch.

Mr. Conway: I'll strike them out because I do think it is important that we get a quarter of a loaf in respect to this exceptional bill and all that flows from it.

Mr. Chairman, I would be prepared--in the interest of the parliamentary secretary to the minister under question--to strike from that amendment--

Mr. Brandt: He does have iron heels.

Mr. Conway: If I can, in an informal way, I will amend that amendment to strike all the words after "session" in its first appearance.

Mr. Mitchell: Second appearance.

Mr. Chairman: There being no further discussion, you all understand the amending motion as latterly amended by Mr. Conway.

All those in favour of that motion please raise your hands.

All those opposed.

Motion agreed to.

Mr. Chairman: We now have finished all the amendments to section 3, I believe. Shall section 3 in its entirety, as amended, carry?

Section 3, as amended, agreed to.

On section 4:

Mr. Conway: I have an amendment that will add a new subsection 4(5). Mr. Renwick has one, 4A(1). I don't know where they fit. Perhaps the legislative counsel does or you, Mr. Chairman. Who has the order of precedence? Do I have it?

Mr. Revell: I think Mr. Conway still. Mr. Renwick's motion would add a new section 4A, which will be a section immediately before section 5.

Mr. Chairman: Correct, so you are next, Mr. Conway.

Mr Conway moves that section 4 of the bill be amended by adding thereto the following subsection:

(5) Any agreement entered into under subsection 4(2) shall be laid before the assembly by the Minister of Consumer and Commercial Relations upon its approval by the Lieutenant Governor in Council, if the assembly is then in session or if not at the next ensuing session, and the agreement shall be deemed to be a

statutory annual report for the purposes of the standing orders of the assembly.

Mr. Conway: I might anticipate the wrath of the now departed member for Chatham-Kent.

Mr. Renwick: I would like to insert after the words "subsection 4(2)," "or subsection 4(3)," so that it would read: "Any agreement entered into under subsection 4(2) or subsection 4(3) shall be laid before the assembly," etc.

Mr. Revell: Excuse me, may I suggest that it should read, "or subsection 4(3)" in terms of your amendment if that's all right with the editorial staff?

Mr. Renwick: If we're going to have the agreement under subsection 4(2), we should have the agreement under subsection 4(3).

Mr. Chairman: That is a subamendment of Mr. Renwick.

Mr. Renwick: It's a friendly amendment. My friend Mr. Conway will accept that.

Mr. Conway: As always, I find Mr. Renwick to be thoughtful, and in this case I am prepared to accept his subamendment.

Hon. Mr. Elgie: The government would again ask if the sponsor of the amendment would consider striking out the word "session" in its second use in that amendment.

Mr. Conway: Accepting, and at the same time regretting the patently antiparliamentary instincts of the honourable members of the Progressive Conservative Party, I suppose we don't have any choice. As I say, as long as my friends in the Conservative Party, the antiparliamentarians, understand our regret, we will, in the interest of getting a quarter loaf, accede reluctantly to that antiparliamentary request.

Mr. Brandt: You lose with such grace, Sean, you really do.

Mr. Roy: I was going to make one comment. If, as the member for Chatham-Kent mentioned, one of the concerns that he has is the cumbersome work load of committees, you've eliminated part of that by not having agreements under section 3.

Just give us the agreement to go to committee in the ones under subsections 4(2) and 4(3). Would you not give us half of that? Exercise some flexibility independent from the executive branch, folks. Give us this one here, all of it.

Hon. Mr. Elgie: We are a unified caucus. We don't make those distinctions.

Mr. Conway: On Bill 127 your unity is stellar.

Mr. Chairman: Shall we vote upon Mr. Renwick's subamendment adding the words "or subsection 4(3)" following the words "subsection 4(2)" in lines three and four of Mr. Conway's amendment?

All those in favour of Mr. Renwick's subamendment, please raise your hands.

All those opposed.

Motion agreed to.

5 p.m.

Mr. Chairman: Now to the amendment motion of Mr. Conway, not only amended by Mr. Renwick's subamendment but also by the deletion in the last four lines following the word "session."

All those in favour of that as so amended, please raise your hands.

All those opposed.

Motion agreed to.

Mr. Chairman: Mr. Renwick, you have the next motion on 4A?

Mr. Renwick: Yes, I believe it has been circulated.

Mr. Chairman: Mr. Renwick moves that Bill 215, An Act respecting Crown Trust Company, be amended by adding thereto the following section:

4A (1) The purchaser and substituted fiduciary shall continue to employ every person who on January 7, 1983, was in the employ of Crown Trust Co. and was so employed on the effective date of the agreement between the registrar and the purchaser under subsection 4(2) and substituted fiduciary under subsection 4(3) for the one-year period next following the effective date of such agreement at a wage or salary of not less than that he was receiving on January 7, 1983.

(2) Nothing in this section prevents the purchaser and substituted fiduciary from terminating the employment of an employee for cause.

Mr. Renwick: I believe the amendment is self-explanatory. It is simply a straight adaptation of what has appeared in a number of bills which have gone through the assembly, the latest one of which is the Act respecting the Municipality of Metropolitan Toronto establishing Exhibition Place. This continuity of employment and the period of time is directly referable to that. There is no pride of draftsmanship in this, and undoubtedly the legislative counsel can improve on it, but the substance of the amendment, to my mind, is clear.

Mr. Stevenson: I would have to oppose this amendment. We

have had considerable discussion yesterday on this situation with employees and so on. It has been made very clear by the minister and Mr. Biddell what the intentions are. In the terms of reference that were sent out to the prospective management people and purchasers of Crown it was urged that they would take every possible step to make sure that the employees retain their position with the ongoing company in whatever form it will carry on. The intention of the government has been made very clear, that maximum steps will be taken to see that their positions are ongoing.

However, I think it is also clear that the management people will have to have some flexibility. Although I appreciate the intent of the amendment here, I think it doesn't allow enough flexibility for the people who will be taking over the management of the firm.

Mr. Mitchell: Mr. Chairman, I quite recognize the rationale behind the motion and I really quite honestly could find where it is a necessary amendment to the bill on the part of the member for Riverdale.

However, like the member who spoke previously, I think this would be putting a caveat on any prospective purchaser which he would not be able to accept, and, I say, any or all of the ones who may be at this time expressing an interest. I think it's something that none of them would be able to accept and live with and might jeopardize the whole basis for the bill which we are discussing at this time.

Mr. Swart: I am somewhat surprised at the attitude expressed by the government members on this committee. I remember, as does my colleague, Mr. Renwick, all of the bills that went through the Ontario Legislature which gave some guarantee of tenure of employment. Those were the bills which were involved in action by the government. I am thinking particularly of the bills that set up the new hydro commissions, proposals by rural hydro, those that, one after the other, gave the guarantee of tenure.

Here we have another initiation by the government with regard to legislation which is respecting a large number of employees and they do not appear to want to deal with it in the same manner as they dealt with a large number of bills which have gone through the Ontario Legislature.

From what Mr. Mitchell has said, it may jeopardize and may be some inconvenience to any purchaser and may have some bearing on the amount of money which is tendered. Surely in a situation like this, where we have a major trust company, major in the sense of assets and in the sense of employees, that is being taken over by the government and it appears it is going to be sold to another company, we should give security to those employees.

We give security, under CDIC, to the depositors, not total but at least up to \$60,000. I want to suggest that many of these employees will be in just as serious a situation if they do not retain their jobs, and perhaps even more serious, than many of the

depositors, yet we are providing that minimum guarantee to the depositors.

Surely we should be prepared to do the same thing for employees under this exceptional circumstance that we have. If that means that there is \$1 million less paid for the company than otherwise would be paid, I think that may be a small price to pay for providing this kind of security.

Unless you provide something, all the best intentions in the world are not going to mean a great deal. You do not give the best intentions in the world to people who have deposits there that you are going to get back as much as you can for them. No, there is legislation; you get it changed immediately to \$60,000, and I support that. I think, however, we should also be supporting some security for these employees.

I point out that this is an old firm and there are a lot of employees there who have perhaps been there many years. There will be an attrition within a period, six months, a year or two years. It does not say anything in this bill that those employees would have to be replaced. They might be inside of two or three or four years down from what there are at present. What is it, 650 or 900?

Hon. Mr. Elgie: I believe it is 500 employees.

Mr. Swart: From 500 employees they might drop down to 400. It still does not prevent that being done, but it does give some security.

I suggest that if we find out this is going to be a tremendous burden on the sale of this, or more particularly after the people buy it, you can always amend legislation later on. To me, to establish the principle, at this time, that you give security to these employees, has to be one of the foremost principles in this act. To say absolutely nothing about employees is almost as serious as saying nothing about depositors.

The purpose of this operation is rescue, as I understand it, to rescue depositors, and perhaps to rescue shareholders, it is hoped. Why should we not be applying the rescue effort to the employees? We do not know what is going to happen here.

Mr. Chairman, I am not going to take much longer. Under this act, it could be bought by a growing trust company. This may be the whole intention, they can close down many of these branches and all kinds of people would be laid off.

5:10 p.m.

If we intend that this should be a going concern on its own, or a branch of another company, and not be just totally amalgamated with another company, which, as I understand it, has been indicated here, then let us put this in the legislation and let us give some measure of protection to those employees.

Mr. Roy: Those of us who have been open-minded

throughout on this legislation are pleased to give some measure of consideration to this legislation.

I find this interesting. I suppose my friends from the New Democratic Party have just made the point I tried to make earlier, by way of amendment, and that is the role of the opposition is to try to improve a particular piece of legislation. Their original approach to this was the bill was inherently bad, so what are we doing wasting our time bringing forward amendments to it?

Mr. Swart: That was not what we said at all.

Mr. Roy: If I have done nothing else, as far as Mr. Swart is concerned, I have made him understand the role of the true opposition. I am glad to see he is now onside on this.

With my colleagues I will support this amendment, although we feel that there would have been better protection for the employees if there was some measure of the rule of law in the whole process. That would have been, in my opinion, the best protection for the employees.

The fact remains that to some measure this legislation is in some ways window-dressing, because an employee can have his employment terminated for cause. I suppose if there is no work or if the assets diminish and there is not enough work, that is for cause, is it not?

Mr. Swart: No.

Mr. Roy: Oh, it is not for cause? I should be very surprised, if the assets of a growing concern came down substantially and there was no work, that you could not terminate someone's employment. Maybe I do not understand labour law, but I would have thought that would be measure for cause.

Nevertheless, we are prepared to give this amendment some consideration; but it is unfortunate in that there could have been better protection, in my opinion, given to the employees if some of the amendments that we are proposing were accepted.

Mr. Brandt: In my view, the best security that the employees could get in this particular instance would be the expeditious passage of Bill 215. As we all know, the employees' jobs are in jeopardy at the moment. To suggest this kind of relatively arbitrary, albeit humanitarian, impediment in the potential transfer of the assets of the company to another purchaser, would be, I think, too rigid and too confining.

Mr. Conway: And too arbitrary, surely. It was your word.

Mr. Brandt: I was using it in a somewhat different context.

Mr. Conway: If the Tory caucus is against the "arbitrary," then we had better start this all over again.

Mr. Brandt: When you look at the normal sale of a

business, I think a potential purchaser would look upon this as being an unnecessary and a very difficult kind of problem that could perhaps again delay the sale or create some additional complications or confusion that we do not really require at this particular time.

In the Woods Gordon report, as an example, on page 21, in paragraph 2, you will note it says with respect to Crown Trust: "The bulk of the losses provided for in 1981 and 1982 relate to imprudent lending in two branch offices where there is a high prospect of frauds having occurred."

I think that bears some relationship to potential employees in some respects. I would think it may be imprudent for us at this particular time to look at some additional safeguards for the employees that would be considered.

Mr. Spensier: The purposes of the amendment are certainly praiseworthy, but there are two points I see that give me some concern.

There are different levels of employees; we have tellers and bookkeepers, whom we all feel should be deserving of protection, but the senior levels of management, the ones exercising policy roles or overall direction, may find themselves in direct conflict with the new management objectives of the purchaser. Therefore, some flexibility ought to be extended there. However, that doesn't in any way detract from our support of the amendment.

The other concern I have is there seem to be two conditions for continued employment. One is that they be an employee on January 7, and the second one being that on the effective date they be so employed. There is nothing to prevent, at one minute before midnight before the effective date of the agreement, the termination of everyone and their rehiring on a selective basis. It seems to me we ought to safeguard against that possibility.

Hon. Mr. Elgie: Mr. Chairman, if I may interject, I trust members know me well enough to know the interest I have always had in ensuring employment for employees. The facts are here that the government has required that any prospective purchaser display and put forward a best effort to retain employment. The government certainly, as it reviews any recommendation, will be keeping that in mind.

I can only assure the member that, although I agree with his intention, the nature of this transaction, and all of the uncertainties that still exist, cannot allow the government to support the motion in fact, even though in principle it supports the intention.

Mr. Renwick: Mr. Chairman, just a brief word in summary. When you have a company of the age and standing of the Crown Trust Co., regardless of its latter-day difficulties, and when you have 500 employees, and when you have had their good-faith co-operation with the registrar and with Woods Gordon during the period of time over which the takeover of the company took place, as evidenced by the report--and I am quite certain the registrar would agree--when

you recognize the concern which was expressed by all members of the committee, when Mr. Snuve was here before us, about the concern of the committee and at the instigation of the minister who wanted us to express that concern, it did seem to me that, without going all of the length of service of all of the various employees, it was quite reasonable, on the basis of this agency acquisition operation, which is a transitional operation, to provide that during that transition there be some minimum protection for those employees in order to provide a turnaround time, in order to provide an opportunity for them to get sorted out without having any sudden action taken.

I have had enough experience in the business world with best-efforts clauses to know that the day after the transaction is closed, that is the end of it, there is no longer any capacity to deal with it other than by persuasion and remonstrance.

It seems to me passing strange, and I noticed the care with which both the minister and Mr. Brandt expressed themselves, that they don't put this proposed amendment into the same category of jeopardizing the relationship with Canada Deposit Insurance Corp. that the other amendment was placed in.

I happen to believe that a clause for the protection of employees is essential in this agreement. This is a reasonable clause. If there is any other reasonable suggestion I am quite happy to accept it.

I recognize the logic of the concern expressed by Mr. Spensieri about the termination immediately before the agreement. That is not my problem; I know that that won't take place.

However, it does seem to me that we have to have a clause, limited in some way, and I propose this amendment because it seemed to me to be the minimum reasonable protection which could be given to employees of a company who are in this difficulty because of no fault of their own.

5:20 p.m.

When I think of the extent and degree of unemployment in the province at the present time, both among those in the business world as well as in the manufacturing, industrial and resource world, I cannot conceive that there would be a putdown of a clause like this on the basis of either a best-efforts clause or on the basis that it is humanitarian and well-intentioned but, somehow or other, in our society at this present time, cannot be accepted.

I have no pride in the draftsmanship, I have no pride in the way it is expressed. I happen to believe that some effort should be made by the government to discuss with the deposit insurance corporation the essential necessity of providing this degree of stability if they are serious about a reasonable transition period in order that the company can continue its ordinary, regular, normal operations. That is what is inherent in all of the reports.

I am extremely disappointed with the response of the members of the Conservative Party in opposition to a most reasonable and

most appropriate amendment, and one which should not have been overlooked in the first place.

Mr. Chairman: There being no further discussion on this--

Mr. Swart: We want a recorded vote.

Mr. Chairman: We are voting on Mr. Renwick's motion about adding section 4A.

The committee divided on Mr. Renwick's motion, which was negatived on the following vote:

Ayes

Conway, Renwick, Roy, Spensieri, Swart.

Nays

Brandt, Eves, Mitchell, Piché, Stevenson, Watson.

Ayes, five; nays, six.

Mr. Chairman: The motion fails, five to six. That completes the amendments on section 4.

Section 4, as amended, agreed to.

On section 5:

Mr. Chairman: Mr. Conway moves that subsection 5(1) of the bill be struck out and the following substituted therefor:

(1) The provisions of the Loan and Trust Corporations Act respecting the sale and purchase of the assets of a trust company, including without limitation the provisions of sections 134 to 145 thereof, apply with necessary modifications to any sale and purchase of any of the assets of the Crown Trust Co. under this act.

Mr. Conway: I am going to defer to my learned colleague, the member for Yorkview, to set out our case in this respect.

Mr. Spensieri: Thank you, Mr. Chairman. Essentially, the term of disposition of assets or the substantial undertakings of a corporation have always held a very special place in our corporate law, not only the general corporate law but, a fortiori, on the trust corporation.

For instance, you will know that even in an ordinary business corporation the sale of the main assets and undertakings requires some special safeguards for the snareholders at large. This is even more important in the case of a trust corporation.

The rights which we seek to institute by this amendment are of a very fundamental nature; the right to attend a meeting specially called to consider the proposed asset sale, the right to ratify the sale and, perhaps the most important aspect here, the

right to ensure some equity participation in the new corporate entity which takes over the assets.

We have heard Mr. Biddell say time and time again that there will be a newly constituted trust company to take over the assets, and it seems that some vehicle ought to be present to enable the shareholders of Crown Trust to find some place in the structure of things in the new corporation.

This amendment is simply in keeping with our earlier amendments calling for a shareholders' bill of rights, as well as the bill of goods that is being sold.

Mr. Swart: For the same reason and fundamental principle that we could not support the first amendment put by the Liberals, we cannot support this appeal. It means that the same kind of delays are in danger of taking place and if there is any validity in the argument put forward that there is urgency and this is a real impediment, once again, we will get the worst of both worlds if we put this into the bill.

Perhaps, save for myself, nothing is ever black and white. The bill we have had put before us by the government is one route to go. I suppose if I were to balance my views for and against it, it would be 40 per cent for it and 60 per cent against it. But if these kinds of clauses get in, it would be 10 per cent for it. In effect, they make the proposal under the bill really inoperative. Therefore, I am in opposition to this amendment, as I was to the first one.

Mr. Conway: Perhaps the Premier's emissary would like to confide in the committee his apparent apoplexy. Sorry, Mr. Chairman. The minister will undoubtedly wish to confide in that latest direction.

Hon. Mr. Elgie: Actually, he wanted me to go to Renfrew and see that you had some wood for your stove this weekend.

Mr. Conway: The Tories in Renfrew county have stopped singing "Let's free enterprise," thanks to Bill 215.

Mr. Cunningham: They have it in Wentworth. Gordon Dean says he is still the only free-enterprise guy around.

Mr. Chairman: There being no further comment--

Ah, Mr. Roy?

Mr. Roy: I have a brief comment. I say to my colleagues on the Conservative side, and especially to my colleagues in the NDP, who have been the self-styled champions of the underdog and the oppressed, and the defenders of civil and human liberties and so on, they--

Mr. Swart: Right on. Right on.

Mr. Roy: Are you going to be okay, Mel?

Interjections.

Mr. Swart: It makes it difficult (inaudible), but we shall survive.

Mr. Roy: You have some difficulty, Mel, containing yourself. What I want to say to you is simply this. You have again a situation where these--

Mr. Swart: Take your time. Please don't let them do what they did the last time.

Interjections.

Mr. Roy: That is the thing about the NDP. They do not want to be interrupted, but if you just tickle them a little bit, do they ever react.

Mr. Brandt: We are hanging on every word.

Mr. Roy: In any event, I am going to try to explain to my colleague, if Mr. Swart can understand the--

Mr. Swart: Don't talk down to me. I understood that first one better than you did.

Interjections.

Mr. Chairman: Mr. Roy, you can carry on with your serious remarks.

Mr. Roy: Maybe I am better off not looking at him when I talk to him.

The point is simply this. We know that the preferred shareholders will be left with what is called the soft assets. It is not an enviable position to be in, in trying to recuperate something tangible out of that particular piece of property.

Without any word of what has happened, their property has been confiscated. The best part of it is being sold off to a purchaser and they are left with what is called the soft assets.

Under this legislation, they have little, if any, recourse whatsoever. We believe that there should be some recourse, that these people should not be treated in this fashion, given the evidence we have heard so far. That is the purpose of the amendment, to preserve some sense of justice and equity in the process. I am very surprised that my colleagues on the committee do not see that, and that certain colleagues, especially from the other opposition party, do not accept and support this amendment. I am very disappointed.

5:30 p.m.

Mr. Chairman: Thank you. There being no further discussion, all those in favour of Mr. Conway's amendment to subsection 5(1) of the act, please raise their hands; three.

All those opposed, please raise their hands; eight.

Motion negatived.

Mr. Conway: Should we not have a recorded vote?

Mr. Chairman: A recorded vote was not asked for. Mr. Conway, you have an amendment on subsection 5(2) of the act?

Mr. Conway: Yes.

Mr. Chairman: Mr. Conway moves that subsection 5(2) of the bill be ~~struck~~ out and the following substituted therefor:

The provisions of the Bulk Sales Act apply to any sale and purchase of any of the assets of the Crown Trust Co. under this act, except that a judge shall not make an order under subsection 3(1) of that act unless the judge is satisfied that the sale would further the purpose of this act.

Mr. Roy: The purpose of the Bulk Sales Act is to give some protection to creditors on the sale of some of these assets. If this was the only provision of the bill which we found offensive, if this was the only provision of the legislation which furthered the minister's intent of making sure that the purchaser gets clear title, we could, in some measure, understand it. If there were other measures in the legislation which would permit individuals to obtain court scrutiny of any transaction or the actions of the officials, if there was that particular provision, I do not think we could take very serious objection.

We understand that in a process such as this we want to ensure that the purchaser gets clear title. But in the light of all the other provisions of the bill, which prohibit all sorts of court challenges, prohibit the rule of law, prohibit any court review, etc., we feel it is just another impediment imposed by the government to prohibit prospective creditors of having any right of action under the Bulk Sales Act in the transfer of this property. Given these circumstances and given all the other sections of the bill, we think that the section should be amended so that there should be some protection given to the creditors.

Mr. Swart: For the reasons which have been given before, granted this is a different act here, but it involves the same problems that we have with the previous two amendments, I am voting against it.

Mr. Renwick: This one particularly confuses me because the Bulk Sales Act, so far as I remember it, is for the protection of creditors. This letter from CDIC says that if these three difficult conditions are met, the CDIC will take the steps necessary to see to it that funds are available to enable all depositors and normal trade creditors of Crown Trust to receive their money when due.

It seems to me that that probably is much more efficacious protection for those creditors than the provisions of the Bulk Sales Act in these circumstances.

Hon. Mr. Elgie: Again, through another route, this goes to the essential purpose of the bill, and that is for an expeditious sale or management agreement that cannot be contested. What the government is saying is that the exemption given under the Bulk Sales Act to persons like receivers or public receivers is simply an exemption that should apply to the registrar in this case. Again, it is essential to the whole purpose of the whole bill. The government cannot support the amendment.

Mr. Chairman: All those in favour of Mr. Conway's amendment to subsection 5(2), please raise your hands; three.

All those opposed, please raise your hands; eight.

Motion negatived.

Mr. Chairman: Mr. Conway, you have an amendment to subsection 5(3)?

Mr. Conway: I do, indeed. I have had a visit from the tooth fairy in the earlier hours of this afternoon and so I will offer an amendment that will read slightly differently from that which the hydra-headed members of the executive council will perhaps have before them.

Mr. Chairman: Mr. Conway moves that subsection 5(3) of the bill be struck out and the following substituted therefor:

(3) Where, as a result of the implementation of an agreement entered into with the registrar under section 4, the purchaser or substituted fiduciary thereunder is in contravention of any provision of the Loan and Trust Corporations Act, the Lieutenant Governor in Council may, upon being satisfied that a waiver or variation of the application of the provision is necessary in the public interest and to further the purpose of this act, by order waive or vary the application of the provision for such period and subject to such terms and conditions as the Lieutenant Governor in Council specifies in the order.

Mr. Conway: That is my amendment, Mr. Chairman. You will note that it deletes from the earlier draft the point that we had wanted, which was the reference to 60 days. The tooth fairy representing the--

Hon. Mr. Elgie: The hydra-headed monster.

Mr. Conway: The tooth fairy representing the--

Hon. Mr. Elgie: Rodney Dangerfield is my new name.

Mr. Conway: --hydra-headed monster indicated to me that on behalf of the executive council the amendment would be acceptable if that limiting time period was deleted.

It is with regret again that we succumb to the ether of that majority, but I must say that we do feel it is an important point. We will take a quarter loaf as opposed to a full loaf. The reasons for the amendment are pretty straightforward. We want some clear

definition of that provision. We feel with this amendment we will move one small step in that direction.

Mr. Mitchell: I was merely going to indicate to the member who moved the motion that if there were certain modifications we would be able to find acceptance of it.

Mr. Roy: You came to that conclusion on your own?

Hon. Mr. Elgie: Mount Vesuvius does have a role to play as king of the mountain.

Mr. Mitchell: Absolutely so. The 60 days would have been putting a tie in there that I don't think would have been really livable with.

Mr. Chairman: Are there any other comments?

All those in favour of Mr. Conway's amendment to subsection 5(3) please raise your hands. That is unanimously carried.

Motion agreed to.

Mr. Chairman: Dr. Elgie, you had the next amendment to subsection 5(4)?

Hon. Mr. Elgie: Mr. Mitchell will move the amendment.

Mr. Chairman: Mr. Mitchell moves that subsection 5(4) of the bill be struck out and the following substituted therefor:

(4) Where Crown Trust Co. is in contravention of any provision of the Loan and Trust Corporations Act while the registrar is in possession and control of its assets, the Lieutenant Governor in Council may, upon being satisfied that a waiver or a variation of the application of the provision is necessary in the public interest and to further the purpose of this act, by order waive or vary the application of the provision for such period and subject to such terms and conditions as the Lieutenant Governor in Council specifies in the order.

Mr. Mitchell, do you wish to expand upon that?

Mr. Mitchell: The proposal to add this results from comments made by the firm of Tory and Tory who, as you know, are working for the Canada Deposit Insurance Corp. They see a gap, as I understand it, from the information given me in the provisions of the existing subsection 5(3), which allows the Lieutenant Governor in Council to waive or vary a breach of the Loan and Trust Corporations Act by a purchaser or a substituted fiduciary--boy, I got tangled on that word--but not a breach by Crown Trust itself. This proposed new subsection would give the Lieutenant Governor in Council a similar power to waive or vary breaches of the Loan and Trust Corporations Act by Crown Trust.

Mr. Cunningham: So what primarily are you allowing?

5:40 p.m.

Hon. Mr. Elgie: Once and if the transaction, whether it be a management arrangement or a sale, is complete there will be left behind the soft assets we referred to, and the Canada Deposit Insurance Corp., and there will therefore be a company that is in contravention of the Loan and Trust Corporations Act. There is a need to provide the same capacity to vary as there is in the other situation.

Mr. Cunningham: The question is, given the current state of affairs with the ministry, how will we know?

Hon. Mr. Elgie: What the order in council says?

Mr. Cunningham: How will we know whether it is in contravention?

Hon. Mr. Elgie: I would just thank you for the compliment to the ministry given by the member for Ottawa East (Mr. Roy) a few minutes ago, which I think was well deserved.

Mr. Chairman: Are there any other comments with regard to Mr. Mitchell's amending motion?

There being none, all those in favour of Mr. Mitchell's motion please raise your hands. It is unanimous.

Motion agreed to.

Mr. Chairman: Let's go on to the next one. Mr. Conway, I believe you also had an amendment to subsection 5(4).

Hon. Mr. Elgie: Is the tooth fairy at work again?

Mr. Conway: The tooth fairy actually had a supplementary message which would alter my proposed amendment. Again, I think this is a technicality by virtue of the change we have just effected.

Mr. Chairman: Mr. Conway moves that section 5 of the bill be amended by adding thereto the following subsection:

(5) An order made under subsection 3 or 4 is a regulation within the meaning of the Regulations Act.

Mr. Mitchell: Just to be clear, the member did change his original motion to subsection 3 or 4?

Mr. Conway: Correct.

Mr. Mitchell: That's fine.

Mr. Revell: I think I can explain it.

Mr. Mitchell: No, I think that was necessary. Anyway, if you wish, go ahead.

Mr. Chairman: Are there any further comments with regard to Mr. Conway's amendment?

Mr. Roy: With regard to this amendment bringing in the Regulations Act at this point, I see some conflict with this subsection 5(4) and section 11. You are entitled, under section 11, to make whatever regulations you want. My God, this is wide. This allows you to make regulations authorizing all such acts or things not specifically provided in this act. This even goes wider than most legislation. It says, "...and in the opinion of the Lieutenant Governor are necessary or advisable to carry out effectively the purpose of this act."

Why would you need this section talking about an order for regulations under section 5 when you've already got all the power you want to make regulations under section 11?

Mr. Revell: First of all, the language that has been specifically used in section 5 is the language of an order in council. It's not the language of regulation. When it was first drafted there was a concern that it was not really determinable whether or not this was a regulation within the meaning of the Regulations Act. Any of the members of this committee who have been on the standing committee on regulations and other statutory instruments are probably aware that there is a very complex definition of regulation in the Regulations Act.

In discussing it with my colleagues in the registrar of regulations office, it was thought it would be best to clarify the nature of an order under section 5 in one of two ways: either it's an order under the Regulations Act or it's an order of an administrative nature. Either way, we thought it should be clarified.

The very purpose of this particular subsection is to clarify the nature of this kind of an order where you are waiving or varying the provisions of the act as they apply to one corporation or one purchaser or one substituted fiduciary.

Mr. Swart: It clarifies, if I may say, in a way that I support by making a regulation rather than just an administrative act. In my understanding it has to be published and therefore we have access to it, which we wouldn't have.

I recognize that clause doesn't say anything contradictory with regard to section 11. It gives the opportunity for the minister, but this, for these purposes, requires that it be a regulation. I think that is desirable and I am supporting it.

Hon. Mr. Elgie: We don't really care if it is one way or the other as long as it is settled.

Mr. Roy: Generally speaking, when the Lieutenant Governor in Council makes an order, doesn't he have to proceed by way of regulation?

Mr. Revell: No, Mr. Roy. The Lieutenant Governor in Council acts by way of an order in council, but not all orders in council are regulations within the meaning of the Regulations Act. It is only orders of a legislative nature, which are regulations

within the meaning of the Regulations Act, which go through the publication process.

That doesn't mean the orders in council are filed in a shoe box. They are filed in the executive council office, but it is the publication.

Mr. Conway: I just want to say two things, if I could, Mr. Chairman. I was struck by the language of subsections 4 and 5, to start with. I am not all that familiar with a lot of legislation, but that did look a little different from what I was normally accustomed to seeing. We have to keep in mind--I think the member for Welland-Thorold has done this quite well--what we propose to do with this bill.

This bill is, in many ways, going to put the Loan and Trust Corporations Act in a state of suspension with respect to a number of major transactions. There is going to be secrecy of a rather remarkable kind and I think anything we can do to provide for the flow of information with respect to what has been done in this extraordinary legislation is commendable. This particular amendment seeks to make it very clear that, by bringing the regulations under the traditions of our Regulations Act, they are going to be published and will be, therefore, in the public domain. That is not guaranteed, as I understood it, Mr. Revell, by the earlier language.

Mr. Revell: I don't think they would be secret, inasmuch as there still would have been an order in council filed in the executive council office. As I understand it the concerns of your amendment are that if it is going to be an order in council and it is going to be available in the executive council, why not put it in the Gazette as a regulation within the Regulations Act.

Mr. Conway: We want to shed what light we can upon this worrisome darkness. Presumably there is no--

Mr. Chairman: Any further discussion?

All those in favour of Mr. Conway's motion on section 5? Opposed?

Motion agreed to.

Section 5, as amended, agreed to.

Sections 6 to 9, inclusive, agreed to.

On section 10:

Mr. Conway: Yes, Mr. Chairman. This takes my colleagues and me back to one of the very central themes which has occupied our attention for much of the deliberations on this particular legislation.

Mr. Chairman: Mr. Conway moves that section 10 of the bill be struck out and the following substituted therefor:

Nothing in this act shall be deemed to affect any right or remedy available to any person at law or equity against the registrar or anyone acting under the authority of the registrar.

Mr. Conway: I will turn to my colleague from Ottawa East to voice the concerns we have in that respect.

5:50 p.m.

Mr. Roy: Mr. Chairman, section 10 is probably the most offensive section in the bill. Our amendment, generally speaking, should not be necessary in legislation. You should never have a provision such as this which says that nothing in this act shall be deemed to affect a right or remedy available to any person in law and equity. That should go as a matter of fact in all legislation. There may be changes but, by and large, most legislation is drafted in such a way that the rule of law, the judicial review, etc., is not abridged by this particular legislation.

Unfortunately, our amendments have been torpedoed and have been objected to in such a decisive and undemocratic way by the majority of the members of this committee that it makes it important for us to have something in this bill to re-emphasize the rule of law; to say that, no matter what transactions take place, individuals affected by this legislation should be entitled to have the remedy of the courts or, at least, if they seek some remedy, to have an opportunity to bring it before the courts.

Right from day one when I read this legislation, and after our meeting with Mr. Biddell, it always seemed to me that we should get back to the point that you are all honourable people, supposedly acting in good faith. Yet in the process, everyone seems to want to have protection. They do not want a judicial review; they do not want to have their acts challenged in any way or second-guessed by anyone around. The response of the minister throughout this process has been, "We have to give the purchaser a clear title."

I can understand that. Give the purchaser a clear title if you want. We understand the provisions of the Bulk Sales Act and some of the other provisions of the statute, but why do you leave the registrar, your ministry, immune to any court review and any court action, except in very narrow circumstances?

I have read your proposed amendment. "No action or other proceeding shall be instituted, and no judgement shall be enforced, against the registrar or anyone acting under the authority of the registrar for any act or omission of such person under this act, except on an action against the registrar otherwise available in law," and it goes on and on, "as a result of any failure of the registrar to act honestly and in good faith or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in discharging the duties."

My God, you have narrowed it down to the point where you can only sue the registrar if you catch him acting not in good faith

between 10 and 10:30 in the evening on December 24, 1984. You are putting it right down.

I can understand why you would want to protect a purchaser, or why a purchaser would say: "I need this kind of protection if I am going to be buying these assets. I am taking on a heavy responsibility." Yet he is not taking on that heavy a responsibility because all the soft assets are no longer there.

However, I understand there is that potential; that the assets are diminishing and they require public confidence and that people may be looking elsewhere. There are all sorts of pressures to keep something that is viable together. I understand that, and I understand the purchaser would want some protection. But I can't understand why you would want such protection under section 10 which makes the government, through the registrar and its official, basically immune from all court action and court review. This is what my colleagues and I have been concerned about throughout.

It is one thing to have unusual circumstances and it is one thing to have draconian measures to rectify those circumstances. But in the process, you have said that not only are you doing that, but we can't challenge it or review it and the courts are excluded from any sort of role in the process. That, to us, is totally unacceptable.

In my opinion, all your amendments do is narrow it down. If you keep your amendments along with subsection 10(2), you are giving nearly absolute immunity to the registrar, to the government. Under this legislation, any individual, even if it is someone who just wants an accounting, cannot get that.

There may be hundreds of different circumstances where some individual rightfully thinks he has been wronged. The area of review of the registrar, in our opinion, is much too narrow. I know that the Canada Deposit Insurance Corp. is putting a lot of pressure on everyone involved here to come up with this legislation, but I cannot believe that in Ontario of February 1983, less than a year after the Charter of Rights, we are bringing forward legislation such as this which excludes the rule of law.

I ask my friends to consider this, because it is one thing to say that we have to act quickly and we have to satisfy, but I just hark back to the days of the War Measures Act. At the time people were saying, "It's undemocratic, it's unpatriotic to even think of opposing something like this." That is the same type of pressure that is being brought on here. "We have to protect the depositors, and the depositors have to be protected at all costs; and damn the consequences, and the ends justify the means."

I never thought the day would come when I would see legislation as far-reaching and as undemocratic as this legislation, especially in section 10. I for one, want to record my objection.

My colleagues and I plead with the majority of the members

of the committee to give this matter consideration. I think there is a way of achieving what you want to achieve without excluding the rule of law. I think you are going too far, and you are seizing on the circumstances to exclude all activity by the courts and by the process of law in this province. I think that is going too far.

Mr. Cunningham: I can recall the events leading up to the enactment of the Charter of Rights. I am sure other members got the same kind of mail I got, particularly from the real estate industry, deploring the absence of protection of property rights entrenched in the Constitution. For my part, I regretted that those property rights were not firmly entrenched in it.

I must say, however, that I was occasionally inclined, in the drafting of my responses to these letters, to say that while it was not being included, and it was not intrinsic and endemic in the act, that in a country like Canada, perhaps the inclusion, in a finite way, was not absolutely necessary.

I never thought for a moment that we would find ourselves in a situation where, through discussion of Bill 215, for whatever reason, however altruistic and however much it may be in the interest of depositors and however urgent it may be, we would possibly be required, even momentarily, to trample on the rights of others.

I have listened to the debate that has gone on here. I must say that in many ways I am attracted to the view that has been advanced by the member for Sarnia and most certainly by the minister and Mr. Biddell, with regard to the urgency and to the package that we give the purchaser. To be fair about it, I can see that the purchaser would not want to be largely encumbered by something that would be in some doubt.

It is my own gut feeling--I do not think they are really getting a trip to the beach here--that whoever takes this thing over has their work cut out for them. I am mindful of all of that. So occasionally I find myself in a situation where I can give you the benefit of the doubt with regard to the necessity to give the purchaser something that is largely unencumbered.

This particular section, however, is really frankly beyond comprehension. To remove the government, and the registrar specifically, from review under the rule of law, except under the most narrow circumstances, is really, I think, exercising a little more elasticity, generosity--licence is probably the best word--under these very difficult circumstances, than would normally be required.

6 p.m.

I hope we reflect upon the powers we have as members of the Legislature. We could probably add another day to the week if we passed an act in the House requiring people to drive on the other side of the road or to paint their houses pink. Of course, if we were queried in that fashion at home in our constituencies or at an all-candidates' meeting during the course of an election, we

would say of course we would never do that, we're reasonable folks.

If, hypothetically, we were queried in the last election as to whether we would ever bring in legislation that would take over the property rights of a particular class--in this particular instance the preferred shareholders--without rule of law and without proper recourse, I would say it is inconceivable in what my good friend, the member for Wentworth, Mr. Dean, says is free-enterprise Ontario. He purports to be a member of "the only party that tends to support free enterprise any more," end of quote.

In summary, Mr. Chairman, I have some difficulty with this, and I hope members reflect on the power we have and the responsibilities that are attendant with that power. I honestly sometimes think I can maybe justify the previous protection that has been demonstrated here in the legislation and the necessity, maybe, to give that unencumbered package to whoever it may be. I find it a little difficult, but under the circumstances, I agonize over it. I'm sure other members have too.

I ask the members of the committee to reflect upon this. I think we're really using a little bit of licence here that perhaps is definitely not in the public interest and is at variance with the rule of law.

Hon. Mr. Elgie: Could I make a few comments once again. Let me emphasize that the rule of law really requires that you do things in a lawful process. That's what's taking place here, and this act before this Legislature gives the legal basis for the steps the government is proposing.

I have pointed out in great detail what the alternatives are. From our point of view, this is the only alternative which offers the kind of protection we as a government feel we should be offering to depositors and to others.

We have to break section 10 down into two parts. Subsection 10(2) goes to the heart of the transfer, by management or by sale, of an asset without possibility of that transfer being contested in the court. We all understand that, and it has been the substance of debate in other sections of this bill.

I want to remind you that section 1 originally gave the registrar exactly the same protection, if you want to use the word. Let's put it another way; it imposed upon him the same responsibilities to act in good faith that the present Loan and Trust Corporations Act does. Legislation imposes the same upon every registrar or comparable person in other ministries. There was nothing new or different about that.

The government did say that, in view of the particular circumstances surrounding this situation and its proposed action, it was prepared to introduce, and indeed has introduced, an amendment, section 3, which imposes responsibilities on the registrar that go beyond the ordinary responsibilities he has under the Loan and Trust Corporations Act, under the ministry acts

and throughout all other ministries for comparable roles by other public servants.

It goes beyond that and says, "Not only must you act in good faith, but you must display a degree of care, diligence and skill that a reasonably prudent person would exercise in discharging the duties and responsibilities of the registrar in comparable circumstances, having regard to the public interest," exactly the same responsibilities placed on directors of corporations under the Business Corporations Act.

I say to you that, rather than isolating and hiving off and protecting the registrar in an unusual way, he has imposed upon him, under the amendment proposed, responsibilities and obligations which he does not carry under other legislation. So I cannot agree with the position you have taken, for the reasons I have said.

Mr. Swart: I find some compelling arguments put forward by the member for Ottawa East (Mr. Roy) on this particular issue. I also welcome the proposal of the minister under subsection 10(3); the minister has eliminated some of the worries I would otherwise have. It certainly modifies the section so that the registrar would have to accept some responsibility.

What bothers me is that if we leave subsection 10(2) in its present form, or even subsection 10(1) in the form as amended by the minister, it looks as though there can be no change in what takes place. There can be no remedy to actions taken by the registrar under subsections 10(1) and 10(2).

I have some concern that there could be no remedy if the registrar was to be found at serious fault under the proposed subsection 10(3). I guess what I would like to do is ask somebody here to address that very real problem.

Is the government saying in its proposed amendment--you will forgive me for bringing them into this, but I think we have to look at the alternative that we have before us. Is the government really saying that, regardless of what may happen to the registrar--if he was at fault resulting in even some criminal action perhaps--that nothing under the agreement could be changed with regard to the sale and the assignment?

Nothing would be changed there? Nothing could be remedied? Nothing could be rectified, regardless of what error or action in bad faith might have been taken by the registrar? Do I make myself clear? If so, I would like to have an answer to that question.

Hon. Mr. Elgie: I would remind you that the sale, assignment or transfer of the distribution is not the job of the registrar. It has to be approved by order in council, which means the executive council takes that responsibility in an appropriate legal process in a democratic society and accepts the obligations imposed upon it.

Mr. Swart: Perhaps I can reword that question. In subsection 10(2) it says no action can be taken by any person

other than the registrar, regardless of what justification there may be. Nobody but the registrar can initiate action in any court to rectify situations, transfers of properties and all the rest of it, which might have been, perhaps not illegal, but certainly inappropriate.

Hon. Mr. Elgie: Only the registrar can initiate that review, that's true. Only the executive council can authorize a sale, assignment or transfer.

Mr. Swart: Perhaps I can go a bit further. Under this act and the supreme authority that the registrar and the Lieutenant Governor in Council have, I cannot imagine anything taking place that wouldn't be legal. In case there was something, why should somebody else not be able to initiate that? Some other interested party?

Hon. Mr. Elgie: I understand what you are saying, but your argument is getting a little circular. At the very beginning, when we talked about the proposed amendments to section 3, namely clauses 1(a), 1(b) and 1(c), you agreed.

You are on one side of the fence or the other on this issue. You either agree that a title has to be passed and cannot be contested by outside persons, or you don't. What we are saying here is that if perchance something should arise, then the registrar may have the right to do so, but not others, because that puts the whole transfer of the title in jeopardy. It makes the whole purpose of the act null and void.

Mr. Swart: With due respect, I think you have distorted my position. What I'm against is changing this act so that it would not be possible for the ministry and the others involved to proceed expeditiously under the laws provided by this act and provided by all other acts.

If an unlawful act were taken, should not somebody other than just the registrar be able to challenge that?

6:10 p.m.

Hon. Mr. Elgie: We are getting to the very essence of the issue. Either you can attack the sale or you cannot. Here we're saying that in the event there is some question to be raised about it, the only person who can do that is the registrar. If he makes an error that comes within subsection 10(3), then he is accountable.

Mr. Conway: I'm no lawyer, but I think that language is pretty unlikely to provide any kind of real remedy in that connection.

Hon. Mr. Elgie: It is the same remedy that is imposed on the directors of all business corporations, section 142 of the Business Corporations Act.

Mr. Roy: The minister prides himself as being one who is fair, judicious and objective, but he doesn't seem to see anything

grossly wrong with what he is putting forward in this legislation as we talk about the rule of law.

I don't know the intent of your amendments. I don't know if they were to enlarge the access to individuals who considered the registrar may not have acted in good faith. I have not heard what the purpose of the amendments was, but if that was the purpose, it seems to me that, if anything, the amendments further restrict and narrow the access to the courts by individuals.

Let us just look at this briefly. I have not heard too many people object to your subsection 10(1), your amendment which basically says that you cannot get at the purchaser. The purchaser is acting in good faith, no matter what happens. There can be no actions or proceedings. You cannot get at the purchaser. We understand that.

However, then you go on to put in subsection 10(3). Before, in subsection 10(1), you could get at the registrar. His defence was that he acted in good faith. Now you are going even further. You are saying that the registrar's good faith is protected even more.

The only way you are going to get at the registrar here is if he committed gross misconduct, gross negligence or something along that line. What you've done is to say he acted in good faith and exercised the degree of care and diligence that a reasonably prudent person would exercise in discharging the duties and responsibilities in comparable circumstances. I get back to my original point. If anything you have narrowed that down.

To further complicate matters in this whole process, you keep subsection 10(2), which says that they have all kinds of immunity. If they want to do something else, the only one who can initiate any review is the registrar.

What a hopeless conflict that is. If there is something grossly wrong, the only person who is going to be able to get at in a very narrow situation is the registrar. Is he going to initiate something against himself?

I'm saying that that's the type of conflict and hopeless situation we are caught up in here. That's just not right. Protect the purchaser. Keep your subsection 10(1), your amendment, but please don't narrow the avenues for an individual. Don't narrow the situation like you do in subsection 10(2) by saying that the registrar is the only one who can initiate the action. Even at that, you can only get at him in very narrow circumstances.

I don't know what you intended to do, but with this amendment you are making it virtually impossible for anyone who may have some problem or seek some remedy to have any access to the courts. Given the circumstances of this whole sorry affair, you don't require that sort of power. You are taking advantage of the panic, the pressure and everything else to close the door on the rule of law. That's going too far.

Mr. Renwick: Mr. Chairman, within the confines of the

government position on the bill up to this point and the bill we now have up to and including section 9, we have no alternative but to leave in subsection 10(2). You have to protect the integrity of the transaction against attack. Otherwise the whole framework of the Canada Deposit Insurance Corp. being available to have funds to enable the depositors and trade creditors to be paid would be in very significant jeopardy.

I think you have to have the amendment which the minister has moved for subsection 10(1) of the bill. Then it comes down--at least in my judgement--as to the breadth of language proposed, assuming for a moment that you are agreeable that the minister's amendment to subsection 10(1) and subsection 10(2) as it presently stands, stand as part of the bill.

The problem your amendment poses to us is whether or not we accept your amendment or the minister's amendment as subsection 10(3). When you come back again to the question of the integrity of the transaction, the problem with your amendment is that as soon as you talk about at law or in equity, you raise the question in equity of the injunction against the transaction. You're locked into the question that you have to protect that transaction.

I'm not going to spend a lot of time quibbling about the minister's proposal on subsection 10(3), but I would have preferred to see it worded directly, "Nothing in this act shall prevent an action against the registrar otherwise available in law for the recovery of damages incurred as a result of any failure of the registrar to act honestly and in good faith," and so on.

I am satisfied with the last words there, the duty usually imposed in modern statutes on a director. The test is real. Mr. Roy may not think it's real, but it is a very real test and it's been subject to a lot of refinement over a number of years to try to get an accurate statement of the responsibility of a director and in this case the registrar acting in the capacity that's established under the act.

I think the minister's amendment is carefully drafted in the sense that it's an action against the registrar "otherwise available in law for the recovery of damages." That excludes the possibility of somebody bringing an action in something called equity to enjoin the registrar from the transaction. Within the narrow limits which the government has made available, I think one has to accept that particular transaction.

I think you have to accept the proposed amendment of subsection 10(1) which will come in a moment or two, I assume. I think you have to accept subsection 10(2) and you have to accept subsection 10(3) in order to protect the integrity of the transaction and still leave the registrar open to be attacked in the courts on grounds which appear to me to be quite reasonable and proper.

6:20 p.m.

I say that entirely within the constraints of the position that we've taken from the beginning. Once the government made up

its mind that it wasn't going to stand behind the depositors or the creditors of the company or the persons in fiduciary relationships and turn to the Canada Deposit Insurance Corp., they were stuck with the conditions imposed by the CDIC.

For us now having passed nine sections of the bill to accept your amendment which would delete subsections 10(1) and 10(2), is simply, to my mind, a last-gasp attempt to destroy the guts of the bill. On reflection, I think you would have to accept that position. I accept the minister's amendment for subsection 10(1) and I accept subsection 10(2) as it now stands in the bill. I would have preferred a more positive statement in subsection 10(3), but I cannot accept the Liberal amendment because of the injunctive possibilities which remain in their amendment. That would, again, attack the integrity of the transaction.

Mr. Mitchell: I would honestly have thought that we were recognizing a shortcoming, if you will, of the legislation in section 10 and were moving in the direction that the member for Renfrew North (Mr. Conway) would have us go. I think we have made the registrar accountable and I really cannot appreciate why the necessity of proving that he did not act honestly or whatever is not a valid coverage in the amendment we propose to introduce.

Frankly, we feel we have tightened up in section 10. We are allowing for an examination where certain conditions haven't been met. I don't think we are prepared to go beyond that.

Mr. Roy: I would just like to make one comment before we leave this, because I think it's extremely important. I would expect nothing more from the member for Carleton. With regard to your comments throughout and certainly on this legislation, I would have expected nothing other than what you've said. In a sense, it's somewhat superfluous.

I am surprised, frankly, by the statement by the member for Riverdale. I would have thought, knowing his inclination in the past, that he would have understood and would give some consideration to the abridgement of the due process and the rule of law in the combination of all these amendments. He is quite right that our amendment will open the door and change all of that in the other sections of the bill. Given what has preceded in the other sections, it's obvious that we have to propose something that is quite wide-sweeping.

I can see his concern, but I cannot understand why he would then proceed to give the minister carte blanche, all under the guise that you've got to protect the transaction. I can see protecting the purchaser, but why he would want to give such very nearly absolute immunity to the registrar is beyond me.

Mr. Renwick: We are not giving immunity to the registrar.

Mr. Roy: You are.

Mr. Renwick: You have to protect the integrity of the transaction.

Mr. Chairman: Order. There being no further discussion, shall we vote on Mr. Conway's amending motion regarding section 10?

All those in favour, please raise your hands.

All those opposed.

Motion negatived.

Mr. Chairman: Now we shall move on to subsection 10(1).

Mr. Mitchell moves that subsection 10(1) of the bill be struck out and the following substituted therefor:

(1) No action or other proceeding shall be instituted and no judgement shall be enforced against a purchaser or a substituted fiduciary or a person who has entered into an agreement with the registrar under section 3 for any act or omission of the registrar under this act.

Mr. Mitchell: What we have done in this is merely move the registrar and created a new subsection 3.

Mr. Chairman: We have had some comments before. Are there any comments other than what has already been said?

There being none, all those in favour of Mr. Mitchell's amendment to subsection 10(1), please raise your hands.

All those opposed please raise your hands.

Motion agreed to.

Mr. Chairman: Shall subsection 10(2) carry? Carried.

There is a new amending motion.

Mr. Mitchell moves that section 10 of the bill be amended by adding thereto the following subsection:

(3) No action or other proceeding shall be instituted and no judgement shall be enforced against the registrar or anyone acting under the authority of the registrar for any act or omission of such person under this act, except an action against the registrar otherwise available in law for the recovery of damages incurred as a result of any failure of the registrar to act honestly and in good faith or to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in discharging the duties and responsibilities of the registrar in comparable circumstances having regard to the public interest.

Is there any further discussion in regard to this?

Mr. Roy: Why didn't you add in there that unless the registrar is caught in a leap year going on the right side of the highway, he may be subject to something?

Mr. Conway: I can't imagine, Mr. Chairman, that the parliamentary assistant to the ministry under question and under great pressure, would be animated by any desire to protect many of the people who have created the seventh fiasco in the past 10 years or 15 years.

Mr. Mitchell: Mr. Chairman, with respect, would you agree the registrar was not covered in the initial drafting? What we have done, really, is included the registrar in here. Surely, to do otherwise than to put in the conditions of acting honestly would be wrong.

Mr. Chairman: There being no further discussion, all those in favour of Mr. Mitchell's addition of subsection 10(3), please raise your hands.

Those opposed please raise your hands.

Motion agreed to.

Section 10, as amended, agreed to.

On section 11:

Mr. Renwick: Mr. Chairman, on section 11--

Mr. Chairman: There must be some amendment that I don't have.

Mr. Renwick: No there is no amendment, just a comment.

Mr. Roy: The brief comment I want to make about section 11 is: having given yourself all that power and that immunity which I have talked about earlier under this bill, you go one step further in section 11--sort of the coup de grâce--and say that the Lieutenant Governor in Council may make regulations authorizing all such acts or things not specifically provided for in this act.

Generally speaking, when you have regulations, you give the parameter of the regulations. You can make regulations to do this, this, this and this, and you enumerate them. In this famous piece of legislation, once again it is a carte blanche. That is in line with what we have seen earlier in this bill. It is going too far and I am concerned about it.

Mr. Renwick: I have a question on this that I would like to ask the legislative counsel. Is there a precedent for this?

Mr. Revell: Yes, Mr. Renwick.

Mr. Renwick: Which act would it be in? It is not common, is it?

Mr. Revell: It is not common, but there are several acts such as the regional municipalities acts. I believe the recent Parry Sound legislation, the archipelago legislation, contains provisions similar to that.

Mr. Renwick: You mean up where the Premier's cottage is?

Let me be quite specific about this. I thought that when we granted power to regulate, we were delegating for the purpose of legislation. This says, to do all acts "not specifically provided," not just as are necessary or advisable to carry out effectively the purposes of the act, but "in the opinion of the Lieutenant Governor in Council." That is unusual language so far as the normal provision of the regulatory power of the Lieutenant Governor in Council is concerned.

Mr. Revell: Normally specific powers would be spelt out, but I think that even, with--

Mr. Renwick: However, the language "necessary or advisable to carry out"--normally, when you enumerate them all there is a catch-all at the end.

Mr. Revell: Yes, but the catch-all comes at the beginning. The Occupational health and safety legislation, for example, contains a very broad regulation-making power and then it goes on, "and without limiting the generality of the foregoing." Then there are about 25 regulation-making powers.

Mr. Renwick: I do not think I would have raised the question if you did not have, "in the opinion of the Lieutenant Governor in Council," in that clause.

Mr. Revell: I would point out that it has to be within the purposes of the act. The purposes of the act are spelt out in section 2 of the bill.

Mr. Chairman: Thank you. There being no further discussion--

Mr. Roy: Just on that point: I have discussed this particular provision with legislative counsel and it is very unusual. There are not many statutes with that particular provision. Mr. Renwick makes a point.

When I first read that, I thought, "My good God, that seems to be contrary to the purpose of regulations." In any event, it is done, and I do not think you could make this bill any worse.

Mr. Chairman: Thank you. Are there any further amendments with regard to sections 11 to 13 inclusive?

Section 11 agreed to.

Sections 12 and 13 agreed to.

Bill 215, as amended, reported.

Mr. Renwick: Mr. Chairman, I would like to comment that we have just had a remarkable experience. The minister, with great skill, has avoided having his deputy or the registrar answer any questions of any kind with respect to this bill.

Mr. Chairman: That is correct.

Mr. Renwick: That is quite an achievement.

Hon. Mr. Elgie: If you noticed yesterday, I did just the reverse. So it is this way one day, that way the other day.

Mr. Renwick: You were giving all of these powers to the registrar--

Mr. Chairman: Before you leave, it has been agreed between the three parties that we will not meet tomorrow, but that we will meet on Thursday following routine proceedings, and on Friday with regard to the two private bills: Kitchener on Thursday and North York on Friday.

The committee adjourned at 6:33 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CITY OF KITCHENER ACT

THURSDAY, FEBRUARY 3, 1983

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
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Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
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Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Sweeney, J. (Kitchener-Wilmot L) for Mr. Spensieri

Also taking part:

Rotenberg, D., Parliamentary Assistant to the Minister of Municipal
Affairs and Housing (Wilson Heights PC)

Clerk: Arnott, D.

Assisting the committee:

Revell, D. L., Legislative Counsel

Witnesses:

Knowles, C., Bylaw Enforcement Officer, City of Cambridge
Marshall, D., Private Citizen
Wallace, J., City Solicitor, City of Kitchener

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, February 3, 1983

The committee met at 3:38 p.m. in room 151.

CITY OF KITCHENER ACT

Consideration of Bill Pr33, An Act respecting the City of Kitchener.

Mr. Chairman: Ladies and gentlemen, we now have a quorum in place. Mr. Elston, you may stay as long as you wish.

We are here to review Bill Pr33, An Act respecting the City of Kitchener, which was referred to us by the House on June 24, 1982. I might point out to the members of the committee that the clerk, at my instruction, sent to you on November 22 and December 13 last resolutions from nine different municipalities, each supporting this bill of the city of Kitchener. Those are Kitchener itself, Gloucester, Guelph, Sarnia, Waterloo, Woodstock, London, Orillia and Nanticoke.

You also have in front of you exhibits 10 and 11, which are from the cities of Oshawa and Trenton, both similarly endorsing this private bill.

I might also draw your attention to the fact that the city of Cambridge is represented here. Cambridge is very interested, being one of the early cities involved in this in the spring. Mr. Colin Knowles, the bylaw enforcement officer, is here as a spectator and perhaps to take part in the proceedings as he may see fit.

I think that is all--one more thing. About two weeks ago the clerk, again at my instructions, contacted Mr. Crane, who was the solicitor for a group--I don't remember their exact name--which was in opposition to the Windsor video-game bill. I understand from the clerk, through the secretary in his office, that Mr. Crane has not received instructions to appear. Therefore it is likely that he will appear here for that group.

We also contacted every group that had expressed interest in the city of Windsor bill, with the exception of the city of Windsor itself. I think that was the city of Woodstock and perhaps the city of Cambridge. Am I correct? Sorry--and the city of Guelph.

Those have all been advised that this was going on and, as I say, the city of Cambridge is the only city represented here today except for the Kitchener people.

Mr. Sweeney: That should tell you something.

Mr. Chairman: I never assume anything.

Interjection: Which way does it tell you?

Mr. Sweeney: Nothing but support.

Mr. Chairman: Universal support, is that it?

The witness today is from the city of Kitchener, the city solicitor, Mr. Wallace. Mr. Marshall is with him in front of us. Would you gentlemen maybe get into the middle where we can all see you. Mr. Breithaupt is blocking you out.

Mr. Breithaupt: I wouldn't want to do that. I'll certainly sit back and allow natural justice to take its course.

Mr. Swart: The chairman just can't stand to see anybody sitting to his left.

Mr. Brandt: Jim, you're very accommodating to the home town team, aren't you?

Mr. Breithaupt: I try to help them whenever I can.

Mr. Chairman: Mr. Wallace, would you carry on, please. May I say Mr. Rotenberg, the parliamentary assistant to the Minister of Municipal Affairs and Housing is here, representing the minister. Mr. Wallace, carry on, please.

Mr. Mitchell: Excuse me. I just wish the chairman wouldn't use those words "carry on." Perhaps "proceed" would be better.

Mr. Rotenberg: I prefer to carry on.

Mr. Mitchell: You always have, David.

Mr. Wallace: I would just like to say that we received the notice to be here today about 9:50 a.m. yesterday. I attempted to notify as many people as I could who had expressed an interest in being here when this matter was originally scheduled for the previous week. Fortunately, Mr. Marshall could be here, but unfortunately other people who had expressed an interest to be here just couldn't make it because of the short notice. They had other things that they couldn't leave, such as their employment.

Alderman Christie of the city council had wanted to be here, and certainly has expressed his regrets to me over the phone that he couldn't be here. He is quite concerned about the ability to regulate video-game arcades or video games themselves and had wished to be here to be some representations. Mr. Marshall is here as a resident of the city and wishes to make some submission himself, if you care to hear his submission.

I have filed with you a brief that incorporates the material that was submitted to you originally with respect to a private bill for the city of Windsor. It incorporates a copy of Bill Pr33, which is before you today, and also incorporates the submissions made by the city of Kitchener with respect to Bill 11, which I

understand is still under consideration by your committee. Those are all in the appendix.

In addition to that, I have a three-page statement, I think addressing the principal concern of the ministry. I will come to that in a minute.

In addition to that, you have before you the case that actually precipitated the city of Windsor bringing its application for special legislation. That was a decision of his honour Judge McMahon on November 7, 1979, in the county court of the county of Essex. They had a bylaw which they thought came under the section of the Municipal Act dealing with places of amusement and would be able to stand up as a regulation for video games under the heading of places of amusement, but the judge thought otherwise and declared that their bylaw was ultra vires.

Faced with that, Windsor decided, I guess, that they had better apply for special legislation. Having done so, the city of Kitchener felt that they would like to follow that.

As you know, the city of Windsor has had to fall by the wayside because they are more concerned in getting on with the rest of the matters in their private bill. Having had the matter adjourned by this committee, they decided to drop the provisions on the video arcades and obtain your approval of the latter part of their bill, so it is left up to the city of Kitchener to proceed with this private bill application.

I refer you especially to the sections of Judge McMahon's decision on pages 9 and 10. He refers to the case Love and the city of Oshawa and he feels he is bound by that. In that case, which is referred to on page 8 of the judgement, it refers to a bylaw that Oshawa had passed, dealing with mechanical pin tables or mechanical games or mechanical amusement devices. It goes back to 1940.

I think it is significant that it goes back to 1940 because they were really dealing with situations that arose in the 1930s with pinball machines, and I refer to that in my submission to you.

Mr. Rotenberg: Mr. Wallace, if I may interrupt for a moment, maybe to assist you. The ministry has no objections, as such, to the licensing of video-game parlours. It is the extra clauses or the extra powers you want over and above the general licensing provisions which are in doubt.

As for a method of getting around the court case you mentioned, whether a video-game parlour is a place of amusement or not, I might indicate there is no objection to allowing the city of Kitchener to license video-game parlours under the present powers of the Licensing Act. The objections I will get into later are on the problems that I indicated are the areas and the age problems, but not the actual licensing of video-game parlours.

I would suggest that possibly you don't have to push that point too much because we also have this court case and--

Mr. Wallace: I will just take it then that you have the case before you--

Mr. Rotenberg: We have seen the case and--

Mr. Wallace: --which precipitated the whole matter coming here.

Mr. Rotenberg: Bill 11 would have allowed you to license pinball arcades without any problem, so I have no objection to including that in some form or other in specific general legislation as far as the licensing of pinball arcades is concerned. It is the other powers that cause us concern. I speak for the ministry.

Mr. Wallace: Unfortunately, I have the same reservations that your own members had at the time they adjourned Windsor's bill to see what you did with Bill 11. All I have to say is that I wait with bated breath for Bill 11.

Mr. Sweeney: You'll have a long wait.

Mr. Wallace: With respect to the other material which I filed with you, you will notice that there is a memo from Mr. Snow, our traffic and parking services director, to myself about a park'n bus token promotion. Again, this indicates how this business of the video games has evolved. It has evolved from being operated by coins to being operated by tokens.

I want you to be aware of what is transpiring in this whole matter because the tokens, I think, are an indication that the games are going the same way that the operation of pinballs went in the 1930s.

3:50 p.m.

The memo from Mr. Snow indicates that a lot of the tokens being sold by the video operations in town are being used in the parking meters and probably will also be used in the future in our bus system.

Mr. Brandt: Excuse me, are they all the same size?

Mr. Wallace: Yes. I have a sample here which I will pass around to you. This is only one of three cards of these and every one of these will be accepted in our parking meters. The ones that look like quarters--there are some on another card I have. I didn't bring them all here. Some of them are different sizes; most of them are this size.

There is a video-game parlour in town called Outer Limits. It has a game token and we have found 362 of those tokens in our meters. The numbers on all these indicate the number we have found. The two other cards are the same. Some of the tokens are slightly smaller, but they also fit in the meters, and they are all showing up.

I gather this is a very prevalent problem. We had phone

calls this past week from Guelph. We were asked, "Are you running into this problem?" We said: "Where have you been? We have had the problem for quite a while." Some of the video-game parlours in Guelph are just now converting to tokens. I understand North York is in the forefront of this; it was one of the first to have tokens in its operations. If you would just pass that around, you could have a look at it.

Mr. Brandt: They would be the size of a quarter and I would assume they would have a value within the games parlour, or whatever you wish to call it, of a quarter; could you redeem it for that amount?

Mr. Wallace: If you look at the second paragraph of the memo to me it says:

"The majority of these tokens are identical in size and colour to ours, i.e. they are gold quarter-sized tokens, which in our facilities have an equivalent monetary value of 25 cents. One of the video operators was originally selling these tokens at a rate of six for \$1, and at one point, as a result of an obvious price war between these operators, they were selling tokens at 10 for \$1. One of the operators has contacted me, namely Mr. Lyle Clarke, and he himself has expressed concern with respect to the discounted coins which have found their way into his machines, including a pay and display parking unit and vending machines. He has approached this particular discount operator and that individual has refused to buy back the tokens from Mr. Clarke at the value for which they were used, i.e. as a quarter."

Mr. Rotenberg: May I ask you a question, because I understand your point? By adding the words "coin operated" to "token operated", under what section of existing legislation would you have the power to regulate the size or type of token being used if we added those words? Do you think you would then have the power to say to a video-game operator, "Thou shalt not use a token, or thou shalt not use a token unless it is--"

Mr. Wallace: No. The reason for putting in "token operated"--if you give us power to regulate "coin operated," I am sure the chap will come back and say, "I don't operate it with a coin, I operate it with a token."

Mr. Rotenberg: The term "coin operated" doesn't give me any problems. What I am wondering is now would you then, or under what section of what act would you then be able to say to a token-operated parlour, "You cannot use these size tokens because they are being used fraudulently in our transit system or something else."

Mr. Wallace: I don't think that is what we are addressing. The mere question we are addressing by having "token" added as well as "coin" is because the use of tokens has overtaken both Windsor and--

Mr. Rotenberg: The term "coin and token operated" gives us no problem.

Mr. Wallace: I think there's another problem. I think what you have now--the machines that accept these accept those

with a milled edge and they drop and they operate by gravity; the machines will take anything. It is very, very expensive to turn around and back up at all our parking meters.

In conjunction with this, I want to stress to you the problems that are evident. I really feel that with the approach you have made in the past with Windsor, with all due respect, the problems that are coming to the fore, especially in the United States, and will be here if they are not already here, should be addressed. I am saying that if you do not do it for us in this bill, then for Pete's sake, do it in Bill 11.

Mr. Mitchell: I apologize. Perhaps I have missed the point the parliamentary assistant was making, but as I understand it, he said that they had no difficulty with the licensing. I fail to see then where there is any conflict with this bill.

Second, I quite clearly understand what is being said. If we pass a bill which simply refers to coin-operated equipment, if they all switch to tokens, then they cease to have the control under the licensing bylaw. It is not an attempt to try to resolve that other issue of tokens in the machines and so on.

Mr. Sweeney: That's another issue--to be resolved some day.

Mr. Mitchell: That is another, separate issue.

I have difficulty appreciating, after hearing what I think the parliamentary assistant said, when he said that he has no objection to the licensing, what the problem is. Why do we have a problem?

Mr. Breithaupt: I was just going to inquire, since that is no doubt going to be the theme of the reply that Mr. Rotenberg may make on behalf of the ministry, whether it would be more useful to have Mr. Wallace review the three-page submission as to how the city sees its needs, and then we would hear from Mr. Rotenberg. The matters of areas and age that are part of subsection 1(3) are the important differences that the ministry has.

Mr. Mitchell: That is the area. I am quite prepared to deal with it as expeditiously as possible. I was just somewhat surprised by the comments and, on reading the bill, I do not see where the disparity lies.

Mr. Wallace: In view of that, I will go directly into the submission I have. I have gone over this before with the committee and you have heard previous arguments on the matter. They are reprinted in my submission. I am just going to read what I submitted to you.

The opposition to the city's submission made by the ministry is principally based on the argument that zoning is the main power which the municipality has, and therefore special legislation is not necessary to control location of video-game arcades. However, this argument, when applied to the introduction of video games to a community, is fallacious for a number of reasons.

One, video games are extremely popular and entertaining for young and old and are already well entrenched in most communities regardless of zoning. Therefore, to pass zoning bylaws now does not really deal with an existing use. If anything, it entrenches the existing use further, by tacitly recognizing that there is no other way to deal with the location of such operations.

Mr. Mitchell: May I interrupt? I have one particular question. What you are saying is that by zoning you would effectively have nonconforming uses in any event?

Mr. Wallace: That is correct.

Two, most video games are located within commercial areas downtown, in shopping centres and in neighbourhood plazas and convenience stores. In fact, this is where they should be from any common sense point of view, as well as a planning point of view. I did not mean any slur there, although it seems to come out that way.

Where a downtown area may be suffering from a large number of vacancies, then the landlord can lease to an arcade to help pay his taxes--and this is, in fact, what is happening. On the downtown streets in Kitchener there is one after another of these, and we have recently had a lot of stores closed. It is a part of the problem. With the downtown changing in character and the general economy, we are having a lot of arcades locating in the commercial area. I think it is asinine to say that these things should be out in an industrial area or should be in any other area. If you are going to have them at all, I think they have to be in a commercial area. If you were zoning them, you would zone them in a commercial area.

That is not the problem. The problem is that once you get them, how do you then make certain that they are properly administered and controlled and that they are not open to all kinds of abuse? That is the point that has to be addressed in a licensing regulation and the power to license.

4 p.m.

Since video games are going into areas where they would be accepted from a planning point of view, then zoning, as far as commercial areas are concerned, is irrelevant. What is relevant, however, is the immense popularity of the arcades. They act as a magnet to attract many young people with time and money. The arcades do make a lot of money.

I have something further to read to you because I think it is important for you to know how much money they do make.

Such a magnet in a commercial area can be, and often is, too near a school. Zoning cannot deal with it and, in fact, will entrench and increase in value such existing businesses, but regulations to curb abuses in all video-game arcades and to eliminate those too close to schools will come to grips with the real problems, and there are problems.

If the operation is not managed by mature and responsible people, it can become a hang-out for undesirables who will be sure to be there to take advantage of the young. If the young can be there at all times of the day and night without mature guidance, then this is a further reason for those who have ill intent to be attracted to the arcade.

Some honourable members scoff at these concerns as being reminiscent of the concern years ago about pool halls. If members care to recall the whole history about pool halls and pinball machines and slot machines in connection therewith, they will remember that both slot machines and pinball machines were an attraction to the young at that time. Also, these machines developed so that they operated on slugs. These slugs in turn, on occasion, were redeemed for money. The whole operation evolved into gaming, which the police found almost impossible to control.

Eventually the Criminal Code was amended to include pinball machines and slot machines as gaming devices and they were made illegal. Only very recently was the Criminal Code amended to take the prohibition off pinball machines, presumably because they no longer paid off in slugs, but gave free games.

However, technology has overtaken us all and the new popular machine is the video game. It has started by giving free games and has established its popularity in all sorts of commercial operations, including pool halls. But--guess what--an interesting development has occurred. Now they operate on tokens, i.e. slugs, which you buy from the operator. How long before these too become gaming devices, if they have not already? Certainly the population has not taken long to catch on to the fact that tokens can be used in city parking meters; we have turned up some 498 in the last six months.

Gentlemen, I submit that all the abuses of popular entertainment machines evident in the 1930s are a potential in the popularity of the video game. The machine itself is wonderful, but the potential for abuse by those who manufacture, distribute and control it is there and must be regulated. Zoning is not the answer. Comprehensive regulations are.

Leading from that, I commend to you this book. I have not reproduced it for you because I do not want to get into trouble with the American Planning Association for breaking their copyright. It is called *Regulating Videogames*, by Martin Jaffe, American Planning Association. They treat the various aspects of it, both from the point of view of zoning and from licensing.

The zoning techniques in the United States are different from here in many respects, but they do go into the licensing aspects I am trying to go into. At the back of this, they have an appendix which is written by a lawyer in the United States, Edward H. Ziegler, Jr. He is a professor of law at the University of Dayton school of law.

Let me read a little excerpt from it, so you will have some idea of what kind of money we are talking about.

"The electronic video games were originally introduced in Japan several years ago. In the last three years the games have been mass-marketed in this country, both as home entertainment and as commercial coin-operated amusements. Such popular video games as Scramble, Asteroids, Space Invaders, Gorf and Pac-Man can now be found in shopping malls, bowling alleys, roller rinks, laundromats, restaurants, theatres and neighbourhood grocery stores throughout the country.

"The typical coin-operated video game involves the movement of images, usually accompanied by sound effects, on a colour television screen connected to a computer. The player is able to control some of the images on the screen through the use of dials or buttons, while others move in a predetermined sequence and interact with player-controlled images. The game can be over in a matter of seconds or last several minutes, depending on the experience and skill of the player. High scores frequently earn extended playing time.

"Today, at a quarter a play, coin-operated video games are big business by anyone's standards. According to one report, Americans during 1980 spent some \$9 billion playing them. However, many local communities have not been sanguine about their popularity, particularly their popularity with young persons. Since the industry's own estimate is that between 50 and 75 per cent of the games' customers are under 19 years of age, local communities are voicing increasing concern about the perceived adverse effects of video games on young persons, individually and more generally on the local community.

"One concern is the possible adverse effects on health, morality and frugality, thought to be directly related to the playing of the games themselves. For example, one court decision reports that the game Space Invaders was played 20,000 times by the same player. In addition, there are problems of litter, noise, truancy, juvenile delinquency and other antisocial conduct thought to be associated with, if not caused by, the attraction of young persons to these games.

"Communities have responded to these concerns by the enforcement of zoning regulations and existing ordinances governing coin-operated amusements and penny arcades, or have adopted new ordinances geared specifically towards prohibiting or regulating the video-game business. These attempts have met with mixed success in the court."

It then goes on to deal with a lot of the cases in New Jersey, California and various cities in the United States that have had problems with it. There is now a case called the city of Mesquite case and it is on its way to the Supreme Court in the United States. Nothing on it has yet been completely resolved, apparently.

"Local governments have sought to use various methods in regulating coin-operated amusements like video games. In some localities coin-operated games are prohibited as accessory uses in restaurants, grocery stores, theatres and other establishments. Other methods include zoning, restricting games to commercial districts and licensing restrictions.

"Communities have also attempted to regulate video games under ordinances adopted to control gambling. Some of the more stringent methods of regulating coin-operated amusements include:

"1. Ordinances totally excluding the use from the locality;

"2. Zoning provisions allowing the use by right, but only as a primary-use recreational centre, subject to fixed restrictions, hours of operation, age of customers, smoking, food and so forth, and only in certain commercially-zoned districts;

"3. Zoning provisions allowing the use only as a conditional or primary use in certain commercially zoned districts, subject to fixed restrictions, with additional standards to be applied on a case-by-case basis in approving their use."

Of course, for any method of regulation to be valid, the locality must have authority to enact the regulations, under either a home rule or constitutional provision, or a zoning or other enabling statute." In a way that is what we want, the enabling statute.

"The regulation also must be carefully considered and drafted to avoid substantive due process and equal protection challenges"--which are peculiar things with their law.

As I say, I cannot stress enough the value of this book. If you are interested in it, it is the publication of the planning advisory service of the American Planning Association, report 370, by Martin Jaffe.

It goes into a great deal of detail about how they have attempted to deal with them in various jurisdictions through zoning. As I said, their zoning down there is more expansive than ours; they do get into the distances between games in rooms; the number of washrooms you should have, depending on the number of games; the provisions to require the operator to clean up litter, to control parking, and also to prohibit various things. They are concerned about the number of replays. They don't talk about tokens but about payoffs. So the attraction in this for gaming interests is very high. When you're talking about a \$9 billion industry, you're talking about a lot of money that can sway a lot of people.

4:10 p.m.

There is a whole section in this article about how you deal with licensing. One of the things I have to stress to you is that they talk about how important it is to have the legislative intent in the bylaw, or whatever you do down there. One of the things they do talk about is the use of licensing to enhance police power and also as a money-making operation.

They refer to a very comprehensive statement of policies and values which is contained in the preamble to the Akron, Ohio, video-game licensing ordinance. The preamble expands on the intent of the policies and legislation of Irvington in New York. I must read this to you. I think it does express a concern of a lot of people:

"Whereas arcades and billiard and pool rooms have become a local concern because of the general disorder occurring in or about their premises; and whereas the operation of pinball machines and similar machines involving chance or skill or reward encourages gaming and a general disorder incident thereto and is a threat or menace to the peace and morals of the community; and whereas even the so-called amusement-only pinball or similar machines are so constructed as to be almost identical in appearance and operation to certain gambling devices per se; and whereas even the vast majority of such so-called amusement-only devices are readily convertible to gambling devices; and whereas the operation of even amusement-only or similar machines can become and now constitute a nuisance if there is not adequate regulation in that it encourages a false sense of values, idling and loitering; and whereas a billiard or pool room or arcade can have a harmful influence on the youth of this community if not regulated; and whereas the amusement provided to operators of pinball machines or the amusement provided to players of billiards or pool contributes little to the health, safety, morals or welfare of such operators or players or the people of this community; and whereas the safety of those who frequent arcades and billiard or pool rooms is a concern that needs to be addressed; and whereas the potentialities of injury and harm to the health, safety and moral welfare of the public from the establishments are very serious unless regulated...." The city of Akron goes on to put in a very comprehensive bylaw.

Whether you think we are beyond that up here I don't know; I submit that we aren't. I think the problems they have in the United States usually manifest themselves at least within the next two to three years up here. They are quite concerned about it down there.

I have just one more problem I want to address to you. Again I say this is all in this book which has been published and which I only got last week. They deal with the penalties for violation and in a quite a stringent way. They sometimes deal with, not only the cancellation of the licence, but a \$1,000 fine. They're talking about quite a concern they have down there and also about the antigambling provisions:

"In some municipalities the licensing ordinance attempts to regulate the replays. The licensing ordinance allows two replays when one person is playing, four replays when two persons are playing." This is because they found that gambling has resulted from it. All that I am saying is it is all the more so if you start getting into the token situation. I think there is a very real danger that develops as it did with pinballs and slot machines in the 1930s.

Because of the money involved with this operation, it attracts all the undesirable elements of the community. I'm not referring to the young people who enjoy playing these games. I'm talking about the people who would be attracted to own, control and distribute the whole business.

I would suggest that you consider extensive regulations dealing with this matter. If you don't see fit to approve the bill which we have before you, I would ask that you consider putting some of those regulations that are in our Bill Pr33 into Bill 11, that is, the ability to deal with the age of people who frequent the operations, allowing us to define areas so that we control the location in relation to schools, regulate the hours of operation in the amusement arcades, provide that the people in control of the amusement arcades are over the age of 18 and allow us to license each machine.

There are other provisions in here and perhaps others which would be more desirable. I understand, and I don't know if this committee is aware of it yet, that the municipality of Metropolitan Toronto is applying to you for special legislation and also the city of Hamilton. I also understand that the requirements they have in their requests are going to be much more stringent than what Windsor has asked and what we are asking.

The approach of Kitchener was that if we at least got this amount of control, it would be a start. We know that Hamilton and Metro are looking for more control. I understand that the city of Toronto, at a meeting on February 7, is looking for a regulation to keep video arcades 300 metres away from schools. I have been so advised today. That's my submission.

The Vice-Chairman: Thank you, Mr. Wallace. Mr. Brandt, do you have a question?

Mr. Brandt: And a statement as well. In connection with the submissions that have been made, I have to say I am particularly sympathetic to the plight you find yourselves in. There are a number of municipalities that I have heard from that have not indicated support for the position that you are taking and have not officially made their views known to this committee. I think there is a long line of other municipalities that are looking for some kind of controls with respect to video arcade legislation that has to be forthcoming fairly soon.

What bothers me is that a lot of the municipalities have been holding out the hope that Bill 11 would contain the kinds of controls that you are looking for. There was perhaps strong reason to believe that Bill 11 was going to be a part of law for this province in this session. It now appears quite likely that Bill 11 is going to die on the Order Paper, and it will be some months, perhaps a half a year or more, before a modified Bill 11 would contain the kinds of controls that you are seeking to be able to put in your own municipalities.

I heard this morning, interestingly enough, from a member of council for the city of Sarnia who was aware of the fact that you were coming before us today. The city of Sarnia, my own municipality, has not as yet indicated in a formal sense that it is going to apply for a private bill of the same type, but it is totally sympathetic with your views. They want legislation that would give them controls that are very similar to the ones that you're seeking here.

What concerns me is this, and I say this as well to the parliamentary assistant, the delays are not of the making of the individual municipalities. They are looking for legislation that would give them some form of control over this type of entertainment parlour, and they have held out the hope that Bill 11 was going to come into reality. It hasn't. As a result of that, they are faced with further delays.

What is going to happen in the meantime, and it has been happening in a lot of municipalities, is that the whole video arcade industry is proliferating at an absolutely phenomenal rate. The growth of the industry is probably one of the largest of any type that I can think of at the moment. You cited figures that would support that kind of statement.

4:20 p.m.

I think at some later point, whether it be six months or a year from now, what concerns me is that I have some difficulty with legislation that has retroactiveness built into it. I believe that the rules of the ball game should be reasonably well established. I can hear the arguments perhaps from some members of the committee suggesting, in a period sometime down the road, that we can't pass that kind of legislation, whatever it might be, because it would adversely affect those people who went into business six months ago or made an investment in the past and, therefore, it would be unfair to change the rules of the ball game, so to speak, at this late date.

The longer we allow this issue to continue--almost as a festering sore for municipalities--the more difficulty we're going to have with it. There is certainly no contraction of the industry. It's an expanding industry and one which is becoming more and more difficult for some of the municipalities to deal with.

Another concern that I had is one that I raised when we dealt with this issue before, and I am still trying to establish in my own mind the accuracy of the information that is coming to me. There appears to be a link between the almost hypnotic effects of these machines, the repetitious play aspect of them, the amount of money that goes into them and certain types of crimes that are taking place in municipalities. I have heard a number of police departments, councillors and, frankly, judges as well, whom I've talked to, suggest that some of the break and entries that have taken place in various municipalities can be linked directly to young people who are using that money as a result of their obsession with these machines in the various video arcades. Some argument could be made, however small and limited it might be, for the fact that perhaps these kinds of establishments are encouraging the type of behaviour that is something less than acceptable.

If the ministry can find its way clear to move on this particular private bill in anticipation of some kind of umbrella legislation in Bill 11 or a modified bill at some future point, I would like to see some form of legislation made available now to

municipalities. I see this as becoming a much more serious problem with each passing day. I'm speaking much more strongly on it now than I did the last time we dealt with the whole video arcade situation. I would like to hear from the parliamentary assistant in this connection, and I would like to hear the views of the ministry with respect to which direction you would like to go.

Mr. Rotenberg: I'm quite prepared to make a statement when it's my turn. Normally I do that as soon as the delegation has concluded. The chairman has ruled otherwise, so I am in the hands of the committee.

Mr. Mitchell: Just as long as you show us what can be amended in here.

The Acting Chairman (Mr. Eves): Mr. Treleaven, who abdicated the chair to ask a brief question, is next on the list. Perhaps then we can have your comments.

Mr. Treleaven: I would like to carry on a little bit from Mr. Brandt's line of questioning. I take it in simplified fashion. Mr. Wallace, you would like retroactive legislation really. You would like video game arcades treated in the same way as body rubs in that the municipalities will have the ability to deal with existing arcades and, if it were under zoning bylaws, existing nonconforming uses. You would like to have control over those the same way you would under body rubs and adult entertainment parlours. Correct?

Mr. Wallace: Yes. I think this is part of the distinction to be made between zoning and licensing. The thing about licensing existing operations is that they are continually under review. Then you can have at least some control on the quality of the responsibility of the operator vis-a-vis those patrons. If he has to renew his licence every year, you have more control on just how the activity is conducted on the premises. This is as opposed to zoning where once he gets it, he has got it, and that's the end of it.

Mr. Treleaven: You want the ability to remove existing video arcades if they don't meet your local municipal standards?

Mr. Wallace: Correct.

Mr. Treleaven: How do you answer the obvious injustice to operators who would have existing leases, perhaps long-term leases? You mentioned investments, but I'm not so hung up on the investments as on long-term leases between the owners of the arcades and perhaps the lessors of the property.

Mr. Wallace: I would be the first to admit this is a problem. In some of the licensing provisions in the United States they have ideas, such as a grandfather clause, whereby if you are there, they are going to leave you there, but they are going to make you get a licence and make it subject to review. These are the things you have to abide by and if you step out of line your licence is revoked. I don't know else you can do it.

The complaints we are getting in the material we have filed with you from the school board indicate that they are quite concerned with the closeness of some of these existing operations to the schools. Of course, the person who was first in with these machines deliberately put them near schools. He knew what he was doing. That's the situation we are faced with.

I agree that it may seem very hard to say we've got to get rid of those. You're saying, if he has a long lease, what does he do, he is really up against it. The only other way I can think of to deal with that is if you say in your bylaw you are going to require certain minimal things that he has to adhere to and he has to have some mature person looking after it. You just watch them closely, that's all.

I know that seems hard, but it's perceived by the schools that they have a problem with those places close to the schools. How else you deal with it, I don't know.

Mr. Treleaven: You really haven't addressed yourself to the injustice of, say, a five-year lease of a business that has been there six months. He has four and a half years yet to go. Would you consider reimbursement for existing leases if they're forced out?

Mr. Wallace: Again, what has happened and the method that has been used, again, in the United States where they have been through this first is that if the business is to change hands then the licence is cancelled. In other words, the snap who is in there now stays with his licence. He stays where he is. If the business is going to change hands, he must surrender the licence and the licence isn't renewed.

Mr. Treleaven: Would this also hold where it was just shares in a corporation that changed hands?

Mr. Wallace: They do go into that in some cities. In the United States they have attempted to find out who was controlling the operations. Obviously, they are concerned about organized crime. They also want the past history, the criminal record, of anyone who applies for a licence, anyone who has a majority shareholder interest in the companies that are involved. They have different degrees of concern down there about who they are involved with.

As I say, some of them have attempted to say that the man who has a licence now can stay, but if he intends to sell or if that business is going to change hands the licence for the video arcade is surrendered and that's the end of it.

Mr. Treleaven: Mr. Wallace, you know very well that takes exactly \$500 to get around by setting up the most simple corporation with one common share. That is really no answer. You just sell that share. You put a holding company behind it and for \$1,500 you've got three corporations.

Mr. Swart: Besides, we never know who the actual owners are, do we?

Mr. Treleaven: That's correct.

Interjection.

Mr. Mitchell: We caught your message.

Mr. Brandt: Just get yourself a number.

Mr. Treleaven: Also, there is the old bugaboo about real control. You can also have a situation where the beneficial owner of a share is Mr. A, but control over him is held by a demand note for \$100,000. That's real control. We've all been through that before.

Do they get into this, the control of it? This going out of business and the business being sold, of course, is the most kindergarteny thing to get by. Do they get into this?

What I'm trying to get at is the unfairness. The unfairness is bothering me that you come along and, whack, take away the man's livelihood and also stick him with four or five years of an expensive lease.

Mr. Wallace: The problem with respect to those is the distance from the school. You could live with the ones downtown if you had the other regulations about how you're going to deal, for instance, with the age of the children involved and so on. Where you're going to get to the very critical part of this is when they are too close to a school and you know they are. They are already in business.

4:30 p.m.

I agree with you, it's unfair to just go in there and say, "You get out because you're now within that distance." I agree that is unfair. As a lawyer, I can see that I would be upset if he was my client.

On the other hand, if you've someone in there who was smart enough to get in there at the beginning and you want to be fair with that person, I don't know how else you do it. I frankly can't tell you. As you say, maybe you would compensate him. But what are we talking about in compensation? How on earth do you ever come to that?

Again, in this book--which I really stress and I would like you all to read because it stresses the importance of it--they talk about the kind of money, and the games can earn up to \$1,000 a week on a single game, depending on the location. All sorts of money is being made on them. Compensation could get you way out in left field. You wouldn't know what you're into.

Maybe in order to be fair to the children you have to be unfair to the proprietor. I don't know if that's the hard choice you've got, but it may be.

Mr. Treleaven: Following on with that, may I ask the parliamentary assistant, in Bill 11--and I would assume that any reincarnation of Bill 11 that would come along--body rub and adult entertainment parlours had retroactive legislation front and centre and video arcades did not. Having heard what Mr. Wallace has said, could you rationalize between retroactivity being all right against body rubs and adult entertainment parlours and not all right or satisfactory or acceptable with regard to video arcades? Could you rationalize that difference?

Mr. Rotenberg: Mr. Chairman, with the permission of the committee, I would like to maybe discuss that as a part of a general statement I would like to make on this bill if the committee would like me to do that at this time.

The Acting Chairman: I think perhaps this would be the appropriate time for Mr. Rotenberg to respond.

Mr. Wallace: Mr. Marshall, if it pleases the committee, would like to say a few words, if you would like to hear from him.

Mr. Mitchell: Mr. Chairman, I gather Mr. Marshall is here really as a parent. That's the understanding I have and based on the experience I have had with some parents in my area, frankly, I would like to hear from him if he can keep his comments relatively short.

Mr. Marshall: How long, sir?

Mr. Mitchell: I'm suggesting that because we do want to get to the parliamentary assistant.

Mr. Marshall: Okay.

The Acting Chairman: Is that the wish of the committee?

Mr. Rotenberg: He is down as a delegation, so I assume he should be heard.

Mr. Marshall: Approximately a year ago I was in a delegation to city council in Kitchener. I am very concerned about this because I know specifically what is happening in the schools.

About a week ago last Monday night at Kitchener council there was a delegation there opposed to a 7-Eleven store which has just taken over the H. Salt fish and chip place on King Street, for those of you who know Kitchener. One block away is the Catholic school board and a Catholic school. A block away the other way is a public school.

I haven't confirmed it, but I understand that the 7-Eleven store is owned by Texaco Oil Co. Is that correct?

Mr. Renwick: I believe so. It is a chain.

Mr. Marshall: If you look at it, around Kitchener there are 17 Texaco locations which are generally now running just simply drive-in gas stations where you pump your own gas. Their bays are empty in most cases and they're selling pop in there now.

They stated that they want to put three video games in this 7-Eleven store downtown. It grosses \$1,000 a month off each machine. It seems to me if I was a marketing manager of Texaco Oil Co., since oil profits have decreased considerably by the last couple of statements I have seen, it look like a beautiful marketing opportunity for them to do something. I believe that the big boys are really going to get going at it quickly, namely, Texaco and the rest of them.

Mr. Mitchell: Putting them into the unused bays.

Mr. Marshall: Sure, and also anything else they can get in, and then they try to get legislation or approval of council to stay open all night.

Mr. Swart: Mr. Chairman, on a point of order, we have been informed that Mr. Elgie is going to make a statement in the Legislature now on the sale of Crown Trust. I thought I should mention it here. We probably don't want to adjourn this, but it's a matter of some significance. There might be some members who are interested.

The Acting Chairman: Thank you. Please continue, Mr. Marshall.

Mr. Breithaupt: If it were possible, since I have been acting as the critic for Dr. Elgie's ministry, I should return to the Legislature to hear his statement.

Mr. Watson: Let's recess for 10 minutes.

Mr. Rotenberg: Until the statement is over.

Interjections.

Mr. Breithaupt: If we could it would be very helpful.

The Acting Chairman: Agreed.

The committee recessed at 4:35 p.m.

5:03 p.m.

Mr. Chairman: There being a quorum in place, we shall reconvene.

I believe the parliamentary assistant was next on the agenda.

Mr. Marshall: I was not finished.

Mr. Chairman: I am sorry, Mr. Marshall.

Mr. Marshall: I just need two minutes.

Gentlemen, I am a divorcee and remarried. I have two children from my first marriage and three from the second, so I

think I can speak on the next point. They tell me that by 1990 one out of two children in Ontario will be living with one parent. I read that in a magazine recently. I do not know how accurate it is, but the way trends are going they predict this.

So I think the legislative body has a moral responsibility to take this under consideration. If you have children in one marriage, which I had, to give them constant supervision is very difficult, especially when the mother has the children, because most mothers are working.

As to the age limit, I think it is very necessary that you put some stipulation into ages as to who can go where and when. I know children in my neighbourhood that are living with one-parent families. I know one kid that pumps over \$10 a week into these machines and he is 12 years old. I know roughly how much his mother makes. I am not sure but I would not be a bit surprised if that kid is stealing that money.

I would suggest to you, gentlemen, when you consider this, that you really look at the age factor. In other words, if they go down, if their parents are with them, fine, let them play it. If they are not, however, there should be stipulations on that.

I have talked to several principals about this. As a kid, I used to play the games all the time, the pinball machines. I would play them in London, Ontario, before I delivered plotters for Roberts. I used to deliver plotters for him when he was running for alderman in London.

Mr. Swart: It sure did have a bad effect.

Mr. Marshall: It sure did; that's right. I used to play at noon hour and I would go back to school and I used to blow whatever. I wasn't the least bit interested in school because I was too revved up after playing these things. It was difficult for the teachers to do anything with me. Consequently, it created a lot of problems.

I submit, gentlemen, that with the breakdown of marriage and so on, it is even going to be far worse. I think you have a responsibility to consider ages in your legislation. That is all I have to say.

Mr. Rotenberg: Thank you, Mr. Chairman. I think the remarks that were made are quite well taken, especially with regard to Bill 11. We had hoped for it, and it is certainly through no fault of this committee or the ministry that Bill 11 hasn't come back; it is just that other events have overtaken us. I had indicated that when this is back before us, Bill 11 would really cover those points which the government thought should be introduced. Bill 11 has been delayed; the timing of it is not certain.

I feel that we can reach some accommodation with Kitchener and any other municipality that comes forward, even though I would indicate at the outset that I don't think we are going to accommodate everything they want, but most of what they want to happen.

Let us understand that licensing, in the philosophy of this government, in the philosophy of the Municipal Act and in the philosophy of Bill 11, is for regulation and control. Licensing is not for prohibition. Prohibition can be done by zoning and other things, including the Criminal Code, which is not within our jurisdiction. We have to keep in mind that a licensing bylaw, permission for licensing and the whole philosophy of licensing are not for prohibition, but only for control. I put that out at the beginning so you will understand what I will be saying in a moment.

We have no objection, in fact, to giving the city of Kitchener or any other municipality the right to license video game arcades or amusement arcades because they would have had it under Bill 11. There are some opinions as to whether or not it is necessary, whether they do or do not come under amusement parlours, because there has been a court case which does put that in doubt.

Speaking for the government, I have no objection to subsection 1(1) of this bill passing, which would define an amusement arcade, and subsection 2, giving the right to license amusement arcades. We have no objection to the proposed amendment, which would include coin or token-operated; that is quite obvious. Where we have some problems is in giving to Kitchener or any municipality powers in their licensing over and above what they would have in general licensing powers.

I would like to go through subsection 1(3) of the proposed bill and indicate why, in effect, I would not support it.

"(3) A bylaw passed under this section may,

"(a) define one or more areas within the municipality in which amusement arcades may be permitted."

I think everyone would agree that one can do that under the zoning bylaw. There is a list of a number of municipalities which in the past years have passed zoning bylaws. Several--East York, Kingston and Etobicoke--have passed bylaws prohibiting them throughout the municipality. Some municipalities--Scarborough, Brockville, Ottawa and St. Catharines--have restricted them to certain neighbourhoods. With respect to the remarks of Mr. Wallace, you don't have to say they can be only in commercial zones, you can very much decide which commercial zones they can be in.

The cities of Toronto and Mississauga have restricted them to industrial areas only. Oshawa has restricted arcades to specific locations, and that passed the OMB just last month after a major hearing. The hearing was in December 1982 and the decision in January 1983.

There is no question that a municipality can, and Kitchener can tomorrow, go out and pass a zoning bylaw in effect saying that amusement arcades are prohibited within the boundaries of the city of Kitchener, or any other areas they want to do. So as far as clause 1(3)(a) is concerned, we feel they can do it under zoning. A prohibition should be done by zoning. Now there is the question of legal nonconforming uses.

Mr. Mitchell: May I just raise a supplementary? In light of the comments the parliamentary assistant has made, does the municipality still have the right to enact a bylaw which would limit the number of establishments as well?

Mr. Rotenberg: No, they cannot limit the number of establishments, but indirectly by location they can limit the number.

5:10 p.m.

Mr. Mitchell: If I may, the city of Nepean a few years ago--and that is why I am trying to follow this up--concerned about the number of gas bars that were coming in, enacted a bylaw which said there would be no more than, I think, 52, but because they could not differentiate between full service and self-service, they just had to say, "There will be no more than X gasoline outlets."

Mr. Rotenberg: Mr. Mitchell, that was done by special private legislation for Nepean.

Interjection: No, it was the Municipal Act.

Mr. Rotenberg: It was a special thing for gas stations only.

Mr. Rotenberg: Bill 11 would repeal that because the philosophy of Bill 11 was that there should be no restriction by numbers.

Mr. Mitchell: Oh, boy, you are going to win a friend on this side if you do that, my friend.

Mr. Rotenberg: If I may proceed, the question on the areas and zoning is on legal nonconforming uses.

The present licensing bylaw which would apply, in our opinion and that of the Windsor solicitor who is before us, is that if we pass clause 1(3)(a), then subsection 110(7) of the Municipal Act would apply. It says: "Notwithstanding subsection 6, a board of commissioners of police or a council shall not refuse to grant a licence with respect to the carrying on of any business by reason only of location of such business where such business was being carried on at such location at the time of coming into force of the bylaw requiring such licence."

So the philosophy of your licence then would carry over into Bill 11. The present act says--and it would apply, in our opinion, to this section even if we did pass clause 1(3)(a)--that you still could not use clause 1(3)(a) to put out of business an existing nonconforming use by virtue of location only.

Whether we pass clause 1(3)(a) or not, however, the permission given in subsection 2 to license and regulate any existing business means they would have to conform on their renewal of licence to whatever regulations Kitchener would pass under the zoning bylaw.

To take it one step further, because mention was made of the body rub parlours--and there is a distinction between body rubs, where you can put legal nonconforming uses out of business, and video arcades, there are a number of opinions around to the effect that provision in our legislation may not hold up in court.

An opinion was given recently by Mr. Robinette, who, as we know is an eminent counsel, to another solicitor for a video game operator, who indicated that he did not think a bylaw passed under that section of our existing legislation will hold up, in light of property rights and of the new Constitution.

So I suggest to you there is some doubt as to whether, even if we did try to pass legislation allowing Kitchener to put legal nonconforming use out of business, that would hold up in court. Aside from the legalities of it, the government does not feel that we should be able to put existing legal nonconforming uses out of business, but we should allow them to go under regulations.

Proceeding under clause 1(3)(b) of the request, to regulate hours of operations, that power is given by subsection 1(2), which allows them to regulate amusement arcades to have the right of hours.

On clauses 1(3)(c) and (d)--and this really refers to Mr. Marshall's proposal--the government is not prepared to put into legislation, as we did not in Bill 11, any reference to age. As far as (c) is concerned, we feel it would probably also be in violation of the Constitution, discriminating as to age as far as employment is concerned. Clause (d) probably would meet the test of the new Constitution as far as supervision by adults of underage persons is concerned. Be that as it may, however, we are not prepared to put any age provision in legislation.

On clause (e), as far as distance the distance of an amusement arcade--

Mr. Brandt: Could I ask a question on that? How do the theatres get away with exactly the same thing? I have not read the restrictions on theatres recently, but do they not restrict according to age, and is that not similar to exactly what is being asked here?

Mr. Swart: The Theatres Act.

Mr. Rotenberg: That is the Ontario censorship. There is a restriction of age under the Theatres Act. So far no one has challenged that as far as the Constitution is concerned.

Mr. Sweeney: What is your objection to the problem--

Mr. Renwick: If I may interject, actually the problem of equal protection and nondiscrimination is dealt with in section 15 of the Constitution, which is not in force yet, and it may well have to be looked at. I think it does not come into force until April 1985, the nondiscrimination part of the Constitution and the equal protection of the laws.

So I think the review the government is doing in order to have its laws conform with the Constitution may have something to say about the restriction in the theatres.

Mr. Brandt: I raised the point only because there appeared to be some inconsistency--

Mr. Sweeney: It is called a contradiction.

Mr. Rotenberg: On the question of clause 1(3)(e), that "...no amusement arcade shall be located within such distance of a school, as defined in the Education Act..." that again can be done by zoning, but cannot apply to legal nonconforming uses.

Both the city of Toronto and the city of Kingston, in the past year, have enacted bylaws, the city of Toronto prohibiting arcades, "no arcade can be closer than 150 metres to another arcade and 300 metres from a school;" and Kingston adopted last November a provision of 300 metres from a school, between each other, and only one arcade per plaza. So that kind of thing is again provided for.

Clause 1(3)(f) of the City of Kitchener Act has the provision to establish a licence fee for each machine. The legislation allows them to establish a licence fee for each arcade. We do not feel that to licence each machine is appropriate. It is licensing business premises.

What I am really saying is that, aside from the age provision, which I know is controversial, if we delete subsection 1(3) from this proposed legislation, Kitchener basically can do what they have requested. What I would suggest is that someone move an amendment which would in effect say that subsection 1(3) of the bill be struck out and the following substituted therefor:

"1(3) A bylaw passed under this section shall be deemed to be a bylaw passed under the Municipal Act."

This may or may not be necessary, but in effect it says that the penalty clause under the Municipal Act would apply to people who violate the licence provisions under this special legislation and the other licensing powers and all the powers of regulation which are now in the Municipal Act for licensing apply to this special legislation which Kitchener has.

Basically, because Bill 11 has not happened, we do feel that a video-game arcade should be allowed to be specifically licensed because there is some doubt about it, but the location factor should be done by zoning, as other municipalities have done it; and we are not prepared to allow the age factor in general legislation and therefore not in specific legislation.

Mr. Sweeney: If I follow what you just said, it is in fact that they can do everything they are asking to do except with reference to the two age questions.

Mr. Rotenberg: Yes, with the additional caveat that, as far as location is concerned, they cannot move out existing businesses. Existing use will become legal nonconforming. They probably could not do it under this legislation anyway.

Mr. Sweeney: That seemed to have been a question of doubt earlier anyway, so we will not quarrel with it. I can also understand your reference to clause 1(3)(c), but I am still at a loss to understand why you have a sort of blanket prohibition with respect to clause 1(3)(d). What is the rationale behind that?

I think there have been some very good arguments given to you today as to why you should consider it, yet you seem just to say, "No way." So what is the reason?

Mr. Rotenberg: In our review of the brief that came forward on Bill 11, this matter of age was one of the things that had been reviewed quite a bit. The ministry and the government had felt that this is in effect a form of discrimination, that if a video-game parlour is legal under the Criminal Code, is a legal operation under municipal bylaws and so on, there should not be discrimination against any person, whether they are under or over 16 years of age; that despite what has been said, it is up to parents if there is to be parental control. If there are violations of the Criminal Code, it should be done that way, but to restrict persons under 16 years of age from these places of business is, we feel, discriminatory and not appropriate.

Mr. Sweeney: Needless to say, I disagree.

Can I ask for a clarification? If I understood you correctly a minute ago with respect to nonconforming use, you said that you cannot move someone out. Does that mean right now or never?

Mr. Rotenberg: It is the same as any nonconforming use under a zoning bylaw--as long as the premises are used for the purpose for which it was used the day the zoning bylaw was passed, which makes it legal nonconforming. As long as that video-game parlour is there, it is a legal nonconforming use and cannot be moved out under the zoning bylaw section.

However, if they are not in conformity with the licensing bylaw or other matters of control, their licence can be refused, which is a way of moving them out. They can be prosecuted for not having a licence.

Mr. Sweeney: That is the extension then. Once the licensing bylaws are in place, with the accompanying regulations, then anyone who operates as a nonconforming use can be refused a licence at the next renewal; is that correct?

Mr. Rotenberg: Yes. They can be refused a licence if they do not qualify under the licensing regulations. They cannot be refused a licence by reason of location only.

I cannot think of the kind of clause you might put in a regulation, but say you put in hours of operation and they are violating the hours of operation, you can refuse them--

5:20 p.m.

Mr. Renwick: --regulatory bylaw, they cannot be kicked out.

Mr. Rotenberg: They can be refused a licence. Therefore, they can be prosecuted for operating without a licence.

Mr. Breithaupt: It has to be done with a cause.

Mr. Rotenberg: Yes, for cause. They can refuse a licence only if they violate a proper licensing bylaw.

Let me be very clear. This is important. The licensing regulations have to be the same for every video-game parlour across the municipality. You cannot have different regulations in different parts of the municipality. You have a regulation for video-game parlours.

As long as that video-game parlour operator obeys the regulations, he must get a licence. He is entitled to one. If he violates that, he can be refused a licence, which in effect puts him out of business. But he cannot be put out of business for location only.

Mr. Sweeney: So the only ones that can be controlled for location are the new ones that apply once the licensing bylaw is put into place.

Mr. Rotenberg: No, once the zoning bylaw is put into place. The zoning bylaw can be totally separate from a licensing bylaw. You can have a zoning bylaw without a licensing bylaw. You can have a licensing bylaw without a zoning bylaw.

Mr. Sweeney: All right. You suggested earlier that Oshawa has now had a court case that says that its zoning bylaw can be very specific. It can restrict to specific locations.

Mr. Rotenberg: Not a court case. They have--

Mr. Mitchell: But not retroactively.

Mr. Sweeney: No, I realize it is not retroactively.

Mr. Rotenberg: Oshawa has passed a zoning bylaw which allows video-game parlours in specific locations in the municipality. It has been approved by the Ontario Municipal Board; it has not been to court.

The city of Toronto, which restricted video-game parlours to industrial locations only and distant from schools and so on, has been to court and its bylaw has been approved by the court. The challenge was turned down by the courts.

Mr. Sweeney: I wonder if we could get Mr. Wallace to react, if he feels so inclined, to the interpretation that everything in subsection 3, except the age limitation, could be covered in some other way. Do you have any reason to disagree with that?

Mr. Brandt: That is not correct either. There is another serious problem. If I could, by way of supplementary--

Mr. Rotenberg: And the licensing of individual machines.

Mr. Brandt: That is the point I am going to raise, the licensing of each machine.

Mr. Rotenberg: You cannot have a fee for each machine. You can have a fee for each location. I do not know how serious that is for Kitchener.

Mr. Swart: I wonder if I might have a supplementary to the supplementary.

Mr. Brandt: I was not finished.

Mr. Swart: You can finish those afterwards. A supplementary to a supplementary comes first in parliamentary procedure. It is very simple.

You may not be able to have a fee for each machine. But can you not have a fee for a different size arcade by some form of determination that might or might not be related to the number of machines? There is a way of varying the fee, is there not, according to the size of the arcade?

Mr. Rotenberg: If Kitchener really wanted that, then you would also have to amend subsection 1 for licensing amusement arcades or class or classes of arcades, so you would have a different fee for a big one or a small one. If that is significant to Kitchener, which I do not think it is--the fee as such is the significant matter of this thing.

Mr. Renwick: But you cannot levy a fee that will be equivalent to a prohibition.

Mr. Rotenberg: No, you cannot have a fee-- So I do not think the fee is the problem.

Mr. Mitchell: In fact, some municipalities tried it and got away with it.

Mr. Chairman: Mr. Brandt, do you want to carry on with your supplementary?

Mr. Brandt: Yes, I am concerned--just following along the line of questioning that Mr. Sweeney was developing in connection with the individual licensing of the machines. I guess I am looking for some consistency.

We license mobile caterers on a per-unit basis. We license taxi cabs on a per-unit basis.

Mr. Breithaupt: But they move around.

Mr. Brandt: Here we have a situation where I can see a very real distinction between one machine in a small variety store, where large assemblies would be almost self-controlled by the operator of the variety store. It may be a necessary adjunct to his income to survive. I do not see it as being a serious societal problem, in the same sense--

Mr. Rotenberg: If I may interrupt you, Mr. Brandt. This, which is consistent with all the locations, is that it is three or more machines. One or two machines do not get licensed. It is three or more machines.

Mr. Renwick: You could solve the mobile part by putting them all on casters.

Mr. Brandt: I noticed that the Kitchener delegation was nodding its head at this point when the question I wanted to raise was raised. I think you were suggesting that this was not a problem for the municipalities. The municipalities that I have talked to indicate it is a problem. The larger arcades--those that are solely dependent upon income from these machines--have no other activities within their particular business operations but the video-arcade games. They do suggest a certain other type of problem. For example, they are the ones who are minting these coins, not the little variety store and not the other small operators who have one, two or perhaps three machines.

I think we have to address that question in a somewhat more direct fashion. I don't know whether the delegation from Kitchener agrees, but I wanted to add that to Mr. Sweeney's list by way of supplementary.

Mr. Chairman: Excuse me. Time is pressing, and there are two more sections that have nothing to do with this video game issue. I just want to point out that Mr. Swart, Mr. Mitchell and Mr. Renwick wish to speak. I'm just drawing your attention to the clock. The other section has nothing to do with it. Therefore, perhaps somebody can summarize. Mr. Swart, you are next. Mr. Sweeney seems to be a little perplexed at what the parliamentary assistant said was permissible to leave in subsection 3. Am I correct?

Mr. Sweeney: What I was really trying to get at is this. What do we have? What limitations, if any, do we have? I get the impression that when it is all said and done, this does not amount to much of anything.

Mr. Rotenberg: You have the right to license video-game parlours, which is one of the main considerations--

Mr. Sweeney: That is subsection 2.

Mr. Rotenberg: Subsection 2, coin-operated and so on. You have the right to put in regulations under your licensing bylaw in accordance with the Municipal Act the way you now regulate any other things that municipalities license. You have the right under the zoning bylaw to regulate location but not to put out of business legal, nonconforming uses.

Mr. Sweeney: If I follow correctly, you cannot do anything about the operations that are presently in place. They stay. Right?

Mr. Rotenberg: They stay, but they must conform to whatever regulation the city of Kitchener puts on video-game parlours, new or old. They will all be covered by the same regulations. If an existing video-game parlour does not conform to those regulations which Kitchener puts forward, they can then refuse to renew a licence or revoke a licence. Then they can take the man to court for operating without a licence--

Mr. Sweeney: But you cannot do anything with respect to the concern about them being close to schools? If they are there, they are there.

Mr. Rotenberg: You cannot for the existing ones, but you can do it for new ones.

Mr. Chairman: May I go back to clauses 3(a) to 3(f) inclusive. I believe the parliamentary assistant said that the government was not prepared to accept any of (a) to (f) inclusive clauses, except for--

Mr. Rotenberg: I'm saying that section 3 should be deleted. Under other existing legislation, they can cover (a) and (b). Clause (e) can be covered in other ways.

Mr. Mitchell: I think it's supplementary. Did I understand the parliamentary assistant to say that or to imply that section 2 could be amended to read: "That the council, the corporation, may pass bylaws for licensing, regulating and governing amusement arcades and classes of amusement arcades?"

Mr. Rotenberg: If the city of Kitchener so desires, if it wants to make some different regulations for larger or small ones, if Mr. Wallace so requests that, I would have no objection to that kind of amendment being put in if that is a problem for them.

Mr. Mitchell: Mr. Wallace, recognizing the position that I think the parliamentary assistant is taking, I guess the question comes down to whether you're prepared to accept half a loaf or run the risk of this bill being lost. I know it's a particularly difficult question to ask you. I must say that I agree with many of the comments made by Mr. Marshall.

Mr. Breithaupt: It's one of getting down to what will happen.

Mr. Mitchell: Would you like to see "classes" put in there? Would that enhance your operation at all?

Mr. Wallace: I think you have a different kind of a cat when you have a large amusement arcade. You have a different kind of a situation than you do with a neighbourhood convenience store with one or two machines. The problem, which I'm sure the

gentleman from Cambridge would be able to confirm, has been that they start out with one or two machines and then they find after a while the tail begins to wag the dog, and it turns into a different kind of a dog. What started out as one or two machines in the convenience store--If he has room, all the canned goods go out, and another machine comes in. The first thing you know the character of the whole operation changes and it can because of the influence of the money received on these machines. We've found that is happening.

5:30 p.m.

Mr. Breithaupt: But those three machines, is this the break-even between those patterns?

Mr. Wallace: We looked at what the city of Windsor did. We didn't really think the province was interested in doing anything on this at all, but if the city of Windsor could get three machines, then that's something to aim for. We felt that really we're fighting an uphill battle. They didn't want to get into considering age which is a very major concern to the police. They didn't want to get into consideration of wiping them out, frankly, where they've been established close to schools because of the free-enterprise aspect of it. The fellow would have a vested right.

They didn't want to get into the licensing of each machine because, again, you've got the general problem of licensing personal property. That would be something different. You would be getting into a whole new aspect of law. As I say to you, in the United States they haven't snied away from it. They have the very problem you're anticipating you're going to have with the Constitution when it comes into force about equal opportunity and so on. All those arguments are in there. Nevertheless, the people have found such difficulty with these things. There is so much money involved and so much pressure on the small towns that they haven't been afraid to come to grips with them.

I submit that the province is afraid to deal with the matter. You're afraid to deal with it. You can't be. You've got to come to grips with this. A lot of money out there is going to be ranged against you, but you've got to do it. If we had had more notice here, this place would have been filled with parents and people from the schools. If you don't understand that, I don't know what I can do to convince you.

Mr. Marshall: Why in the Bay area in California, have they put strict legislation on ages and so on? In the Bay area of California, historically, they've had problems. Gentlemen, if you don't deal with this, you've got your heads in the sand.

Mr. Swart: I don't know whether our plan is to finish this evening. If it is, all of us are going to have to keep our remarks pretty short at this time. I don't think the changes proposed by the parliamentary assistant are sufficient to meet the problem as posed by the municipalities, particularly with regard to proximities. I suspect, too, that if you tried to limit the

hours of an arcade which was close to a school to different hours than those limited on the other arcades, you would have problems getting away with that. You could have an injunction brought against you and you would lose it.

Mr. Rotenberg: If you have the distance from schools in the bill, it still wouldn't apply to those that are there now because of the general legislation.

Mr. Swart: If you had licensing, which means you have to renew the licence each year, certainly if your government gave the power, the municipality could, in fact, prohibit the renewal of a licence so that they could not operate there.

Mr. Rotenberg: General legislation says that is not so and this wouldn't supersede the general legislation.

Mr. Swart: I would say you could change the general legislation, or you can put irrespective of section so-and-so. That's possible. It's not impossible at all to do that if we want to do it, to make that exception. Sure, as it's worded here the other legislation might supersede it, but you could reword this. You know that and I know that. That's a bit of a red herring.

It seems to me that is what is required. I look at this from the point of view that I don't think any councils I know that have been there a long time are going to really pass harmful, arbitrary legislation. If you did give the municipalities power with regard to licensing, they are going to look at that person who has an arcade operating at the present time close to a school where there may be a fairly substantial investment. It's not as much investment as a nonconforming building perhaps.

They might decide they're not going to put it out of business, but he cannot operate those perhaps at noon hour or prior to school going in or perhaps even during school hours. A council is, generally speaking, going to be reasonable on these things. They are local. They know what the pressures are from both sides and they will generally listen to the business people and try to make an accommodation. Many of us in this room have been on municipal council. I think we know that to be the case.

By giving them the power, I don't think it means they are going to go all the way in some arbitrary action. I'm one of those that happens to believe that these video games by themselves don't constitute anything immoral or are not even a bad influence. There may be a tremendous attraction that they have to the young people. You can get a group of young people together and, by deviation from the intent of the game, get into the gaming process. You can have some real problems.

Mr. Breithaupt: They could be buying lottery tickets.

Mr. Swart: When the comments were made that they breed immorality, they establish a false sense of values, I'm not sure how far we have gone as a society about prohibiting anything because it establishes a false sense of values or anything of that nature.

Mr. Renwick: We certainly haven't done it by municipal bylaws.

Mr. Swart: I don't think they're that bad inherently, but the consequences if we don't regulate them--I guess is what I am saying--because of the tremendous attraction, can cause real problems in our society. I'm inclined to think that we should give the local municipalities the power to deal in the areas where these are real problems.

One of those areas is having them adjacent to schools and having them open at noon hour and during school hours. The attraction to many--dare I use the term, weak-willed young people, and there are weak-willed adults--is such that they will go there instead of going to school, the consequences be damned.

Mr. Rotenberg: They have that power under the zoning bylaw.

Mr. Swart: They have it in zoning, but you already said zoning can't be retroactive. Generally speaking, for the ones that are having the problems now next to the schools, that's meaningless. What I'm suggesting is that we should pass the legislation to give the authority to the municipality to deal with its problems in the areas where they're having the major problems, in the areas of concern.

I don't think what the parliamentary assistant is proposing goes far enough to really deal with the problem. That's what I'm saying. I recognize that this bill in itself will not accomplish what the people from Kitchener want it to accomplish. There may have to be other amendments made. I think we should make them. Maybe we should take some time on this tomorrow to work out some further amendments.

Finally, because of the time, let me just say that it's probably not bad to have this kind of a pilot project, even if you're thinking of general legislation down the road. It's not bad to have a bill of this type pass now. Such arbitrary use of it--we'll find that out.

The ministry often has permitted some special legislation to a municipality, even if it's only Toronto with regard to the police review board, or only for the one city to see how it works. You've used that over and over again. It might not be a bad idea to permit one or two or three municipalities to have some of the special legislation and see how it works. Afterwards, you could amend the legislation accordingly.

Mr. Renwick: I know with your experience that something is bothering you about our failure to come to grips with it. Could you pinpoint what your concerns are about it? I would like to understand what the position is. It wouldn't be the first time that this committee in a nonpartisan way did not necessarily accept the direction of the parliamentary assistant. I'm not talking about that in terms of some parliamentary revolt or

destruction of the party system. I'm just talking about trying to deal with the problem. I think for the first time you have been a little bit roundabout in expressing specifically how you think we could deal with these questions.

5:40 p.m.

Forget the nonconforming use and the zoning part of it. That is a difficult problem, but as an ongoing one, how would you think that one could deal with this question of age, the question about the tokens that you are raising, going back to the syndrome again of the slot machines, etc?

Mr. Brandt: I appreciate the question and I have, as I indicated, received a number of representations from municipalities which want to have a relatively strong effective amount of control over these video-arcade parlours, or whatever one might refer to them as. I think that their concerns are such that obviously they are not addressing themselves to the constitutional question as to age limitation. That could be a question quite beyond the control of this particular committee.

If we do set that aside for the moment, I think the question of licensing the individual machines is of concern to them because the point has been very well made by Mr. Wallace that the larger the arcade, the more difficulty one has, from a municipal standpoint, policing the societal problem, the problem of perhaps questionable assembly of a number of young people in one location. All of those things become somewhat more intense and somewhat more exaggerated when you get a larger number of machines in a given parlour.

Obviously, the proximity to schools is another question which partly can be dealt with by zoning, but the municipalities that I have spoken to are not satisfied that that goes nearly far enough in terms of them being able to regulate it.

So I see a lot of value in what Kitchener is proposing to us. Again, if one were to delete those areas that are constitutionally questionable, in the other areas I would like to see us at least attempt to work out some forms of compromise that would allow Kitchener to get the balance of what they are looking for, if at all possible.

I don't know if I am answering your question as directly as you want.

Mr. Renwick: There are the three questions. You have certainly opened my eyes about the difference between a single machine and a parlour, for the licensing fee part of it. That would be very right; the burden on the municipality is always greater when there are more people assembled in a smaller area for entertainment purposes. I could understand why one could put a good argument for the licence on a machine basis and so forth, or at least on every three machines or whatever the multiple was, something to get away from just a single fee for a parlour.

Mr. Rotenberg: Mr. Chairman, if I may--

Mr. Renwick: Just a second. I am all right on that one.

On the hours one, I have no idea what the flow of trade, apart from school children, is through these arcades. I assume, at least as a theoretic proposition, that you could regulate hours to indicate that none of them anywhere could be open during school hours; it wouldn't matter where they were. I presume you could say they would be open from three in the afternoon until 11 o'clock at night, an eight-hour day or whatever it would be. I assume you could do that. I don't know how many people who are adults use them during the day time and who would feel disadvantaged because they couldn't do it. Am I correct on that part of it?

Mr. Brandt: The municipality would have the right to establish hours of operation; they can do that now with other businesses. Some of them choose not to do so, quite obviously.

Mr. Breithaupt: I think they all would be treated--

Mr. Rotenberg: No, not necessarily. With respect, if they want class or classes, you could have a class of video-game arcades which were 1,000 feet from a school which would have different regulations than a class of video-game arcades which were not within 1,000 feet of a school. You can't prohibit them, but you can have a different class and you might have different hours for those which are closer to a school than those which are not close to a school, with the caveat--I am not sure what the law is because I am not a lawyer--if the regulation seemed to be arbitrary or discriminatory, the court might throw out that kind of regulation.

Mr. Breithaupt: That is what I meant.

Mr. Rotenberg: If we put in class or classes, as long as the regulations are reasonable, I think they would stand up in court, but if you said those that are 1,000 feet from a school could only be open from 5 p.m. to 6 p.m., the court would probably throw that out. I am trying to say this because it goes back to Mr. Sweeney's point. What the ministry is saying and the government is saying is you can't put out of business existing legal nonconforming uses. You can put them in a different class with different regulations.

Mr. Renwick: But as a term of the licence, you could require that in this municipality no arcade would be open until three in the afternoon.

Mr. Rotenberg: Yes, you could do that.

Mr. Renwick: I am just trying to stick-handle. I know it sounds theoretic. As I say, I don't know how many nonschool people use them during school hours, if you get what I mean.

Mr. Swart: You would get a lot of objection from the operators.

Mr. Renwick: Sure, you would get a lot of objection from the operators, whatever you do. I am always leery about the enforcement aspects of the provision which talks about "children only if accompanied by an adult." Apart altogether from the validity of it, the enforcement problem is an almost totally impossible one to enforce--at least I think it is--and the same with any age question, that no kid under 16 is allowed into the place. You transfer the burden to the operator of the shop which he can't then discharge. The only way they did it with liquor was to provide a special ID card for the liquor store and we can't get into the ID card business on a general basis for school children.

I can understand the licence fee one, the token one. What are you saying? Are you saying that no machine can be operated in this municipality that can be used by tokens?

Mr. Brandt: In my own view, I am wondering if perhaps that whole question of the tokens shouldn't be taken a step further and perhaps the information and some documentation given to the federal authorities. I see very little distinction between counterfeiting paper money and counterfeiting coins, because those coins are simply not being used in-house, in these machines.

Any token that is being used to replace a coin is, in fact, counterfeit. If it is being used in parking meters, if it is being used in other confectionery machines that distribute products of various types, in my view, that is a form of counterfeiting. I am wondering if the federal authorities shouldn't be looking at the absolute right that these people are taking upon themselves to mint their own coins, which are, quite obviously, being used for purposes other than just the machines in their particular small operations. I don't know whether that is valid or not. I don't know any other way to control it than to prohibit it.

Mr. Breithaupt: It wouldn't be a provincial matter in any event. That would be entirely a federal responsibility.

Mr. Brandt: That is why I raised the question. I am perhaps thinking out loud when I say that. I think I recall that of the one type of coin you have received, there were close to 400--362. When one relates that number of quarters into dollars, that is \$100 that in some way has been passed illegally. Is that not correct?

Mr. Breithaupt: Services have been obtained.

Mr. Wallace: We advised you that at the time all this discounting was going on we understood that some of these tokens had to be produced in the United States. Shortly thereafter we understand that the RCMP picked up somebody with about 60,000 not ones in Kitchener.

Mr. Breithaupt: They made a little extra, did they, a few extra?

Mr. Wallace: We can't prove it, we have no idea, but we think that is how one of the operators or some of the operators were able to discount them to get around their competitors. That is an inference you could draw.

Mr. Renwick: I just don't know how much of a balloon we want to make of the problem. I see that as a problem because if you have got under-the-counter exchange of token for money, you are into the gambling business; if you have got this counterfeit coin, you are into that. We don't have any jurisdiction over that. As I say, I don't know how much of a balloon you want to make of it, but it would be interesting for this committee to find out, for example, from the investigation branch of the OPP their views on the possibilities with respect to the intrusion of gambling and counterfeiting over a period of time through this device and how do they view it as a problem.

5:50 p.m.

I think that because of the liquor licence board, particularly when James Mackie was chairman of the board, we have been relatively free of the other thing. The procedures which were established were to make certain that organized crime did not get liquor licences in the province. I cannot guarantee that any more than anyone else can, but they have been extremely careful with respect to that.

If you are talking about organized crime in a municipality, there are many municipalities where they have not got the facilities, the background or the information techniques to find out who is behind an organization, whether it is a legitimate one or whether it is some other organization that you suddenly find has a foothold in each municipality and is using money. That strikes me as a problem. Maybe Metropolitan Toronto can vet the kind of people who get those licences, but there must be a lot of municipalities in Ontario that do not have the skills and abilities. That would bother me.

The police aspect of this question, the criminal part of it that you have raised, is something that I do not think we can shy away from. I do not think we should underestimate it as members of the committee to think for a moment that we have our heads in the sand about this. I think we are talking only within the limits of what we can accomplish. You can read me that article and I can agree with all of the moral problems with this, but they have not solved it in the United States by proliferating regulations.

Mr. Wallace: They made an attempt.

Mr. Renwick: Yes, but if we recognize it as a problem and pass some regulation that does not touch the problem at all, then it does not solve it. It gives everybody some solace that somehow or other they have done something about it.

Just to finish up, on the one hand, I am unhappy about the parliamentary assistant's response that we have got to deny Kitchener this. On the other hand, I am not certain I see the way of solving the problems that have been raised. I do not know to what extent this committee is going to be faced next session with two or three more requests for special legislation. How do we get around to it? Do we just continue to go around in this revolving

door on it? We are saying the same things now that we have said in the Windsor bill. Presumably when some other bill comes in, they will be saying the same thing again.

Mr. Mitchell: I do not know whether to pursue this or not. It comes back to the class or classes again. Let us assume we were to amend this to put in the words "class" and "classes." Let us assume that the city of Kitchener, when they were drawing up their regulations, said that a class 1 arcade shall be those who have one to three machines, class 2 arcades will have three to ten, and so on. Within that classification, class 3 will operate between the hours of three o'clock and 11:30 and shall be allowed to admit persons within certain age limits.

Mr. Rotenberg: Everything but the age limits would be possible.

Mr. Mitchell: Are you sure that the age limits would not be--

Mr. Rotenberg: No, because under the Municipal Act, with class or classes, unless we give them a special power which I have indicated the government is not prepared to do, they cannot regulate age because that is not part of the general legislation. They cannot regulate age. They can regulate a whole bunch of other things.

Mr. Mitchell: All right.

Mr. Marshall: What about buying cigarettes? Is there not an age limit as to purchasing cigarettes?

Mr. Sweeney: You have to be at least 16.

Mr. Mitchell: I have one other question for the parliamentary assistant or the staff. Assuming we put in "class" or "classes," are there limits they can set for the licence fees?

Mr. Rotenberg: No, I do not think there would be a limit for licence fees, except if the licence fee became prohibitory.

Mr. Mitchell: They could effectively look at an arcade with 10 machines or one machine and say that the licence fee for the 10-machine arcade will be \$100 per machine and work it back from there.

Mr. Rotenberg: It cannot be per machine, but perhaps--

Mr. Mitchell: Oh, no. If the arcade has 10 machines, the licence fee for that arcade is going to be \$1,000.

Mr. Sweeney: Are there not limitations in this new Bill 11 when it eventually comes through?

Mr. Rotenberg: Bill 11 would have a limitation on licence fees. In the present legislation, if we passed this the way I am recommending it, there would not be a limitation on the fees.

Mr. Mitchell: Would Bill 11 supersede this bill if and when it came in?

Mr. Rotenberg: No, not necessarily, but Bill 11 would, in effect, give them everything they have in this bill. Bill 11 would then close the door on the prohibitive fee.

Mr. Sweeney: But if this bill was passed, and they were allowed to charge higher fees according to classes, then any change that would come in under Bill 11 would not prohibit them to continue under this legislation. Is that what you are saying?

Mr. Mitchell: That is the question.

Mr. Rotenberg: You are now giving me the idea that maybe there should be something in here about that. What we are trying to do is give them everything they would have under Bill 11.

Mr. Swart: That depends which bill has a notwithstanding clause in it.

Mr. Rotenberg: I am not sure about the answer. It depends how Bill 11 is drawn up in its final form. Probably Bill 11 would have a limitation on the amount of fees.

Mr. Mitchell: In other words, that bill would be able to apply retroactively? Is that what you are telling me?

Mr. Rotenberg: No, it would apply from then on to any licence issued beyond that.

Mr. Mitchell: So what they had established would continue to apply, but not for any new licenses then issued in the future?

Mr. Rotenberg: It depends now Bill 11 will be drawn. It would probably be essentially any licence renewed after Bill 11 came into force.

Mr. Breithaupt: At which time, this section would likely be rescinded.

Mr. Mitchell: I am just rather interested in these manoeuvres.

Mr. Brandt: With some co-operation and understanding from the committee, in view of the time, I might be able to get a motion on the floor that would meet with reasonable acceptance at this point. I feel that there is a current of sympathy throughout all parties and through all members of the committee for the position being taken by Kitchener. I would be quite prepared, as are other colleagues of mine who represent the government's side, to attempt to move towards a position that is more compatible with what you are asking for. I think that that may not be possible, though, at this point in time.

What I would suggest we do is take whatever number of slices off this loaf of bread that we can get now and continue the battle as time goes on, either through Bill 11 or through further discussions with the parliamentary assistant and with the minister to attempt to get that which I think is quite appropriate.

I would move, in light of those remarks, and hoping for some support from the opposition parties, that the private bill on the part of Kitchener be approved as amended by the parliamentary assistant. He can read into the record those amendments. I think we are fairly clear on what they are.

Mr. Rotenberg: I am not a member of the committee. I cannot make the amendments.

Mr. Breithaupt: As a sponsor of the bill, I would be prepared to make the two amendment since it would appear that this is all we are going to be able to accommodate. I think the bill can then be completed.

Mr. Sweeney: I have one question for clarification before you go any further.

Mr. Chairman: I am sorry. You cannot have one motion hanging on another motion. You are going to have to put it a different way.

Mr. Brandt: I will withdraw my motion and give the floor to Mr. Breithaupt

Mr. Rotenberg: Let us go clause by clause and make the amendments as we go.

Mr. Sweeney: Can I just understand something before you proceed? Where can you fit in the reference to class or classes?

Mr. Rotenberg: In subsection 1(2).

Mr. Sweeney: When we come to that, would you draw my attention to it because that is important to be in.

Mr. Chairman: May we go to section 1? I believe there is an amendment in line 2.

Mr. Breithaupt moves that subsection 1(1) be amended in the second line after the fourth word "more" by deleting the word "coin-operated" and replacing it with the words "coin or token operated."

6 p.m.

Do you also want the hypnen?

Mr. Revell: I don't think a hypnen is necessary.

Mr. Chairman: Any further discussion?

Motion agreed to.

Mr. Chairman: Are there any other amendments with regard to section 1?

Mr. Breithaupt: If the point is that in subsection 1(2), if we are going to put in "class or classes," it may not be necessary to deal with the "three or more" phrase.

Mr. Rotenberg: We feel, and I think everyone agrees, that one or two machines shouldn't be licensed.

Mr. Breithaupt: So that there might be a nominal class.

Mr. Rotenberg: There is no class. Their request is three or more, which fits into everything. One or two machines are just excluded from all of this situation.

Mr. Wallace: My understanding of the argument was that there is a distinction to be made between groups that have three or more--a large arcade--and those that are less than a large arcade. What I'm suggesting to you is that, as it stands now, this really deals with three or more, or the large arcade. If you decide you want to deal with it in classes, why not leave it open so that you can have the corner store with one machine, the one that has two, three or whatever. They do have the ability to change their character, depending on the economic circumstances of the owner and how many machines he wants.

Mr. Rotenberg: With respect, if a place has two machines and you don't license the operator, if he puts in a third or fourth or fifth, then he comes under a different category and then requires a licence. If you have a class from three to 10, let us say, and you have it as class A and then he puts in an 11th machine, he suddenly becomes a class B. Once you have given him a licence and he doesn't conform with that class, he needs a different kind of licence.

Mr. Wallace: I'm just suggesting--

Mr. Rotenberg: I would suggest, with respect, I would like to leave well enough alone and leave it three or more machines. It has been the policy everywhere.

Mr. Watson: It would save a lot of bookkeeping for you.

Mr. Wallace: It's more wide open if you say we can have class or classes.

Mr. Rotenberg: We're quibbling about allowing "class or classes" in subsection 2.

Mr. Wallace: No. I'm saying if you suggest that you want "class or classes", then leave the discretion in there of how to define the classes so that we can actually have a class that is less than three machines.

Mr. Mitchell: It was suggested by the parliamentary assistant that it could be amended to include "class or classes". Surely by putting that in, we have acknowledged that the municipality has the right to identify a class A, one to three, or class B, three to five, or whatever.

Mr. Chairman: Does someone have an amendment that they wish to propose, make a motion, so that we can deal with that and either vote it up or down?

Mr. Breithaupt: The effect, Mr. Chairman, of leaving "three or more" in simply is that you don't have a class for that group. Your classes begin at three.

Mr. Rotenberg: Let me just take a moment on this. The purpose of licensing is to license a business, not license the machines. That's the philosophy of all our licensing legislation. A person who runs a variety store and has one machine in there is not in the video-game business. If he has two machines he is not in the video-game business.

You're not licensing the machine; you're licensing the business. We have generally agreed in all our discussions that one or two machines is not a business. Three or more is at least a sub-business. I would, with respect, ask the committee to leave well enough alone. To harass a person who has one machine in his variety store, to make him go and get a licence, is a little much. It's not really what the problem is all about.

Mr. Mitchell: Now you are suggesting you could not accept "class or classes?"

Mr. Rotenberg: No, of course, you should put in "class or classes," but leave the three or more machines as Mr. Breithaupt suggested. One or two machines is just something that is not part of this bill.

Mr. Swart: They're not really contradictory. I think it was said before that class doesn't necessarily mean just the number of machines. There can be other classes. One class might be those within 1,000 feet of the school. Mind you, I think that would be thrown out, from my municipal experience, if you tried to put that in a class. Nevertheless, what we're going to get is limited because of the terms that have been laid down by the parliamentary assistant as to what they will accept. We may be able to broaden it a bit by putting "class or classes" in there. Leave the three in there and then put class or classes, which could provide for other methods of classifying.

Mr. Rotenberg: Mr. Breithaupt has an amendment to subsection 1(2) that might solve the problem.

Mr. Breithaupt: Mr. Chairman, I would suggest then that, following the comments from the parliamentary assistant that my amendment to subsection 1(1) would be just the phrase "coin or token operated," if that is acceptable, we will move on to the class or classes theme in subsection 1(2).

Mr. Sweeney: I have a question about this. If I understand correctly, one of the advantages of moving to "class or classes" is that you can, even in a small way, affect the problem of operations near a school. You have indicated the various ways in which you could do it, time and so on like that. A different class has a different limitation to it.

If, in fact, you have a number of small stores with two machines each all within 50 feet of a school, there is no way you can use the "class or classes" to control that if you leave the "three or more" in. I would like to counterplea, if you will, with the parliamentary assistant to say that if we're putting the "class or classes" in, to give them a form of control which they can't have in any other way. Then surely don't further limit them more so than they are going to be limited anyway.

Mr. Rotenberg: Then chance of having seven or eight different stores all with two machines close to a school is somewhat unlikely.

Mr. Marshall: It exists now.

Mr. Wallace: It exists now.

Mr. Sweeney: No, it's not true in Kitchener.

Mr. Rotenberg: As I say, the government feels that you should be able to license a business, not be able to license individual machines. The store with one machine is certainly not in the video-game business. As I say, this is just the way we feel about it, that you're licensing businesses and you have to have at least three machines to be in the business. That's a definition that has been accepted by all those proponents of this kind of legislation.

Mr. Sweeney: I don't know to what extent it's true in other municipalities, but the problem is that in our municipality there are a lot of small stores that have been set up close to schools simply to get the school business in many ways. They pick up the chocolate bars and the pop at lunch time; the kids walking home from school because they're so close. In a sense, it is a problem. I'll admit that saying that there are seven and eight within a block is an exaggeration, but there are locations where there are more than one. I wouldn't be prepared to say how many.

Mr. Mitchell: I tend to agree with Mr. Sweeney although I may also add that there is one only a couple of blocks from where I live in Ottawa. If you look at those stores that have one or two machines in them, usually there's only one person playing. They wind up playing it all the time. That's all I've ever seen in those facilities.

Mr. Rotenberg: It's an area of congregation.

Mr. Chairman: I've had a technical problem set out to me by the legislative counsel. If you are getting into one and two, it is the problem with regard to private bills that have been

advertised. This private bill has been advertised with the words "three or more" in there. If we were to amend and go down to include places that have one and two, then we have problems with those persons who have one and two machines on their premises not having had an opportunity of appearing before this committee and making representations. Am I correct, Mr. Revell, in my interpretation?

Mr. Revell: Yes. I believe that under the standing orders it's possible to amend the bill so that it affects fewer people than are caught by the scope of the advertising. When you amend the bill so that it suddenly captures people who received either no notice of it, or when they read the notice, made the assumption, "I don't have to worry about this legislation because I am excluded by the very definition of it," I think you end up with a slight problem.

In terms of adding "class or classes," as Mr. Swart said, it's not inconsistent to have a null set. The null set here would be one and two machines as a nonclass. It's not even included in the legislation, but you can have a five-machine class, you can have a 20-machine class and a 30-machine class. It's not inconsistent. But I do think there is the problem of suddenly making this apply to the one- or two-machine operator in that he did not receive notice of the bill.

Mr. Mitchell: Even the solicitor from the city of Kitchener is nodding his head at that point. Mr. Breithaupt, I think, has the floor.

Mr. Sweeney: All right, let's vote.

Mr. Mitchell: Has subsection 1(1) carried?

Mr. Chairman: Are there other amendments to subsection 1(1)? No, fine. Shall subsection 1(1), as amended, carry?

Motion agreed to.

Mr. Chairman: Are there any amendments to subsection 1(2)?

Mr. Breithaupt moves that subsection 1(2) be deleted and replaced with the following: The council of the corporation may pass bylaws for licensing, regulating and governing,

(a) amusement arcades or any class or classes thereof, and

(b) persons who operate amusement arcades to which a bylaw passed under clause (a) applies.

6:10 p.m.

Mr. Rotenberg: And the words then "and for revoking and suspending any such licence?"

Mr. Revell: Sorry, "for revoking and suspending any such licence" should be added on the end, Mr. Breithaupt.

Mr. Breithaupt: So that would be picked up for the last phrase and then "for revoking and suspending any such licence" be included in the amendment.

Motion agreed to.

Mr. Chairman: Are there any further amendments to subsection 2? Shall subsection 2, as amended, carry?

Motion agreed to.

Mr. Chairman: Mr. Breithaupt moves that subsection 1(3) be struck out and be replaced with the following: A bylaw passed under this section shall be deemed to be a bylaw passed under the Municipal Act.

Is there any further discussion on Mr. Breithaupt's amendment of subsection 3?

Mr. Swart: I just want to say that, to me, it ducks this bill so totally I can't support this amendment. There are two or three things they particularly want to do in this bill. One is to keep these large arcades away from the schools; second, they want to prohibit the children from being there and. Although they may say this is discrimination under the Constitution, in fact, our Constitution won't be declared until 1985, so we could put this in now and see how it works out.

This is simply not going to resolve the real, fundamental problems that are faced now by the municipalities. Maybe what we have done may be slightly better than what we have at the present time solely under the Municipal Act, but I just don't think it really resolves the problem to an acceptable degree. Therefore, I have to oppose it.

Mr. Chairman: Any further discussion on Mr. Breithaupt's amendment on subsection 1(3)?

All those in favour of Mr. Breithaupt's amendment, please raise their hands; seven. All those opposed, one.

Motion agreed to.

Mr. Breithaupt: I don't believe there are any further amendments. I just should advise the committee that the remaining sections 2 and 3 deal with certain changes in the administration and operation of the board of directors of The Centre in the Square Inc.

Mr. Chairman: Excuse me, I haven't carried subsection 1(3). All those in favour of subsection 1(3), as amended, please raise your hands. All those opposed, please raise your hands. That motion is carried, seven to one.

Section 1, as amended, agreed to.

Mr. Breithaupt: Sections 2 and 3 deal with certain changes to the management of The Centre in the Square Inc., or arts centre, in the city of Kitchener. I believe these changes and matters that appear here with respect to directors and how they are appointed and their terms are favourable to the ministry. Is that correct?

Mr. Rotenberg: No objection.

Sections 2 to 4, inclusive, agreed to.

Preamble agreed to.

Section 5 agreed to.

Bill Pr33 reported.

Mr. Mitchell: Mr. Chairman, before we adjourn, Mr. Brandt has asked me if I will raise two questions for you. One, within the express funds created for this committee, could you arrange that that book, to which the solicitor for the city of Kitchener drew our attention, be purchased. Two, would you, as chairman, and the clerk attempt to discuss this whole issue of tokens, as raised by Mr. Brandt, with the OPP and RCMP to get their comments?

Mr. Chairman: I will undertake, on behalf of the clerk, to contact the OPP with a copy of Mr. Renwick's remarks from Hansard and follow up on that as Mr. Renwick stated.

Mr. Mitchell: And will you purchase the book?

Mr. Chairman: Is that one copy or more?

Mr. Mitchell: One for each member of the committee and whatever the clerk--

Mr. Breithaupt: At least I would hope that there would be a number of copies available at the library because if this Bill 11, or its replacement, is going to deal with this theme, it would be useful to have at least some on hand.

Mr. Chairman: Shall we then order 12? Is that the consensus, that the clerk order 12 copies of this book?

Mr. Breithaupt: For distribution as the chairman sees fit.

Mr. Mitchell: Or if you want to leave it wide open and just say that the chairman has the authority--

Mr. Chairman: No. Is that the consensus? Yes, I see the consensus.

Mr. Swart: Does that mean you don't get any?

Mr. Chairman: No. Twelve, 13?

Mr. Mitchell: No, not 13; 15.

Mr. Chairman: Fifteen copies. We are now adjourning to reconvene tomorrow following routine proceedings.

The committee adjourned at 6:16 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE
CITY OF NORTH YORK ACT
FRIDAY, FEBRUARY 4, 1983

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breitnaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Camleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Substitution:

Kolyn, A. (Lakeshore PC) for Mr. Watson

Also taking part:

Robinson, A. M. (Scarborough-Ellesmere PC)

Clerk: Arnott, D.

Assisting the committee:

Revell, D. L., Legislative Counsel

Witness:

Onley, C. E., City Solicitor, City of North York

LEGISLATURE OF ONTARIO

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Friday, February 4, 1983

The committee met at 11:28 a.m. in room 151.

CITY OF NORTH YORK ACT

Consideration of Bill Pr10, An Act respecting the city of North York.

Mr. Chairman: Shall we proceed with Bill Pr10, An Act respecting the City of North York?

Mr. Mitchell: We have three parties here today.

Mr. Chairman: It might have something to do with that, too. Mr. Swart was very persuasive this morning in pointing things out to me.

Might I point out, gentlemen, that Bill Pr10 was referred to us some many months ago by the House. When it was adjourned on April 15, 1982, it received first reading. It was adjourned sine die when it came up in front of this committee the first time. In November the city requested that we proceed with the bill and sent around a letter, dated November 8, 1982, enclosing an amended subsection, which will be clause 2(2)(c). That has been distributed to you.

Mr. Robinson is the sponsor of the bill and perhaps he would carry on.

11:30 a.m.

Mr. Robinson: It is my pleasure this morning to bring before the justice committee Bill Pr10, An Act respecting the City of North York. The bill has had something of a complex history in a legislative way, even in the brief time it has been before us for consideration. I think, indeed, there are going to be further recommendations made by the city of North York this morning before you are asked to consider it in its entirety.

Rather than discussing the merits of the bill at this time, it is my pleasure to introduce to the committee Charles E. Onley, QC, who is, without a doubt, one of the most illustrious municipal solicitors in our province today. I'm able to say that, knowing, of course, that before succumbing to the pressures and the enticements of the city of North York, he was a solicitor for the great borough of Scarborough.

Having said that, I would also introduce to you Mr. George Dixon, of the city's municipal legal staff. Without further ado, I would ask Mr. Onley to take the floor, if that is your wish.

Mr. Chairman: Thank you, Mr. Robinson. Perhaps, Mr.

Onley, to start with, you might outline the bill in simple words for the committee before the technicalities begin.

Mr. Onley: Thank you very much.

We are withdrawing section 1. That is the one dealing with tank farms. We are withdrawing it for two reasons. One is the objections, and also the problem, in short, has substantially been solved. Some of the oil companies involved have volunteered to pay the full amount of taxes.

The reason it was brought forward in the first place is that they were paying something like \$80 an acre. In round terms, on a 10-acre parcel, they were paying less than half of the standard subdivision house assessment. Therefore, we are asking that section 1 be withdrawn.

Section 2 is the meat of the matter. The essential reason is that what we are seeking here is not covered by any present legislation, including the new Planning Act. North York is moving, as are some other municipalities, but North York is moving from the old subdivision days of single-family development to rather massive redevelopment.

Rather than having subdivisions of land, we are having assemblies of land. These assemblies are to create new development. I think it's important to note that a high-rise commercial or a high-rise residential development is really nothing more than a vertical subdivision. If, instead of going up, an apartment building was built side by side, it would be a subdivision.

It should also be noted that the subdivision process applies where there is a condominium. We have the anomalous situation today that you can have two buildings exactly the same, one a condominium and one rental, but the provisions we seek here already apply to the condominium but do not apply to the rental.

It also seems anomalous that, indigenous to the matter of condominiums, what we are seeking here already applies if you have a consent and you are going to divide an 80-foot lot into two 40-foot lots, or a 100-foot lot into two 50-foot lots. However, it would not apply if the person had two 50-foot lots and assembled them because he wanted to have a high-rise development so he could rezone it.

As to site-plan control--under what is now section 40 and is carried forward in substantially, if not exactly, the same form as the new Planning Act--originally, this was called development control, but really it does not control development. There are enumerated items in that section. That is all it does. There are just nine of them.

In the case of an integrated, large redevelopment which we are getting into--as you probably read in the paper, the downtown development in North York--there is a great deal of co-ordination required, not only of services, but between developers. It has been said that an intense redevelopment of two or three acres with

high rise has just as big an impact as a 100-acre initial development of single-family dwellings.

It is completely anomalous to us. We have all these sorts of controls, including binding successors in title for a subdivision of two lots, if you will, and don't have it for a development of high-rise apartments affecting many more people. Not only does the redevelopment on a smaller parcel not have control as far as services and so on are concerned, it also affects far more people in the community. There are more people involved in five acres of redevelopment than there are in 100 acres of the standard single-family subdivision.

Some examples: for instance, we have on our official plan a provision for underground walkways. It's true on the site-plan control it talks about walkways, but that's only in the development. We really require some co-ordination to make sure these matters are happening. It's difficult to co-ordinate where you have just a general authority in a zoning bylaw. At the present time you cannot attach conditions to zoning.

We have had more than one example where, if the municipality approves, they rezone it subject to a development agreement. The owner says, "Fine, you've approved the rezoning; go and pass the bylaw or we won't sign the development agreement." We go to the Ontario Municipal Board and we are put in the, to me, very sad situation where our planning staff, planning board and council have approved the rezoning. We cannot say that the rezoning was no good. They appeal our refusal and get the rezoning and say, "Never mind, we're not going to enter into the development agreement."

Another and comparatively new matter is that we are getting into what are called streetscape policies. We can't deal with them in a zoning bylaw really. All you have are setbacks. We've been trying to stretch it to say it's under the site-plan control, but really for practical purposes it doesn't work.

One of the serious problems I alluded to earlier is that even if they do sign the development agreement it is not binding upon successors in title as would be the case if it were a consent to divide two lots.

This is not unusual, as I'm sure you know, for a person whose business is rezoning land, putting it in condition so that it can be developed, and then selling it. I'm not suggesting a developer would do it for any improper purpose. He can avoid the whole thing merely by transferring it to some other captive company of his.

All we're seeking is a clear and efficient manner of processing the implementation of redevelopment. That's all. We have had similar legislation, the same legislation virtually, in Burlington for 10 years. There was further legislation developed in London and so on. There has been no complaint about that. In the case of Burlington, after having it for over 10 years they have had one court case which was quite clear and decided a small independent issue.

Although it is not unique for North York, it is only applicable where you are having a large amount of redevelopment. It's only when you get into the crunch position of requiring some substantial amount of change in the existing services and require to have dealt with items that are not covered by the site plan control section. There's no legislation at the present time to cover our problem. The only other municipalities I can think of that have this sort of a problem in the Metro area would be Scarborough and Etobicoke.

One may ask, what about the city of Toronto? I point out to you the whole of downtown Toronto was zoned 12-times coverage, and the small amounts that are involved are gladly paid in their case. We're struggling with about four-times coverage. It is just not as easy to get compliance by applicants for redevelopment.

We are asking really only that we have the same authority to deal with redevelopment, keeping in mind, by the way, that if they don't agree with it they could appeal to the municipal board, just as a person can appeal on a consent or on a condominium or on a subdivision. They have protection there.

11:40 a.m.

I might just add one thing. Mayor Lastman had hoped to be here. I don't want to sound facetious, but he had a hairy matter come up. We hope it won't come out either, but he had a matter he had to see a doctor about with respect to his curly hair. He sends his very apologies very sincerely.

Mr. Swart: On a point of order, I'm wondering, just to facilitate things because of what happened yesterday, if we might hear from the parliamentary assistant first. Then we could have the discussion by the committee. I think yesterday we had quite a bit of discussion and he had to cut in halfway through. Perhaps we could hear the views of the parliamentary assistant at this time.

Mr. Mitchell: I had one basic question. If I may just place it so the parliamentary assistant knows where I am coming from. It has always been my impression, and I've been out of municipal politics now for too many years--

Mr. Swart: I think you should go back.

Mr. Mitchell: Thanks, Mel. I wish you the best too.

It has always been my understanding that a municipality could pass a development or redevelopment bylaw which basically covered all of these. I guess that's where my confusion lies: why the need for this bill?

Mr. Chairman: I am inclined to follow Mr. Swart's suggestion that we hear from the parliamentary assistant rather than taking a lot of time and then learning of his position near the end. Perhaps the parliamentary assistant would respond to this.

Mr. Rotenberg: Mr. Chairman, as usual Mr. Onley gives us a great case for what he wants. There are other aspects which I

think have to be considered. What we are basically talking about, as I understand it, is money, although there may be some planning controls as well.

Some of the members of the committee, especially Mr. Swart, have been with us all year and all of last year dealing with Bill 159, the new Planning Act, which is what, in effect--

Mr. Swart: Three years.

Mr. Rotenberg: Three years, yes, in detailed study. In effect, the city of North York is now trying to amend the Planning Act, which just received its third reading last week, for North York only. Of course, if it is amended for North York only the precedent is there to amend it for every other municipality within the province which is developing.

There are two different aspects to land development. One is subdivision of raw land; another is redevelopment. With all due respect to Mr. Onley and the city of North York, there are some very essential differences in the development of raw land and in redevelopment historically and from the municipal point of view.

When you develop raw land, you do enter into a subdivision agreement. You do require the subdivider to pay for some of the raw services that go on the land or for the land. These are called lot levies and these are allowed by the government for municipalities to impose them.

I should say as an aside, through the Association of Municipalities of Ontario and through various committees there has been a review of the whole lot-levy procedure over the past three or four years. It's not a happy situation because a number of municipalities in the province have asked for a review of lot levies and there are some different procedures in different municipalities and even among AMO. At this time I don't perceive an agreement among the various municipalities that are involved in development of subdivisions as to how they feel the lot-levy legislation should be changed.

It has been the principle of this province's Planning Act, practically from the beginning, that on subdivision on new development of new raw land, that lot levies can be imposed. It has been a basic philosophy of this government and the Planning Act that on redevelopment, lot levies are not imposed, although there are some development agreements for certain specific things.

Really, maybe not in all the detail, what Mr. Onley and the city of North York are asking for is to be, in effect, allowed to impose a form of lot levy on a redevelopment. That is, when you take a piece of land, be it at Yonge and Sheppard or wherever, and a man comes in, he buys his land, he knows what the zoning is, he wants to redevelop it or he thinks that, because of the official plan, he is now entitled to twice the coverage. He is going to get more coverage under the official plan--the zoning is there; the official plan says it is going to be there--than the city of North York has a condition of whatever.

They say: "That is all very well, but, gentlemen, we are going to need more sewers; we are going to need to widen the roads; we are going to need this; we are going to need that. We want you to pay for this."

The government does not feel that type of thing is appropriate. We have had a lot of discussion from all sides of the Legislature about the problems of housing. One of the problems of a lack of housing within the city of North York, the metropolitan area, and probably throughout the province, is the cost to developers of putting up new housing.

Mr. Spensieri: You feel the home ownership--

Mr. Rotenberg: Just a moment.

You are, in effect, adding a burden onto that particular piece of ground. You are adding a burden onto that developer, which eventually comes onto the eventual purchasers.

As I say, it is the philosophy of our Planning Act--and I agree with it and the government does--that those types of things should be part of the general levy throughout the municipality and should not be imposed on one particular development.

There are provisions within the new Planning Act for certain conditions to be imposed on site plan control. All of the things in section 2 of the bill, are things that should also be taken into consideration on a rezoning.

North York is trying to take what you can do under subdivision by taking raw land and developing it and saying you are going to be able to do the same on redevelopment. But subdivision is not land assembly; Mr. Onley is quite correct. I do believe there is quite a difference. I and the government believe that land assembly should not be treated the same way as subdivisions, because they have bought land and the services are there. In all aspects, it is the responsibility of the municipality as a whole to pay for redevelopment or re-evaluation of services.

A lot of the presentations were made before the general government committee last year and a lot of these things were discussed; both the problem of lot levies on new land and on redevelopment land and the possibility of being able to pose the same kind of conditions on redevelopment as on subdivision control.

I believe--Mr. Swart may confirm some of this--these things were extensively discussed within the last calendar year. The Legislature as a whole--not just the government--made a decision that we would not allow the type of thing which North York is asking for.

Having made that decision, we should not change that whole philosophy now and start a whole new way of handling redevelopment for the city of North York. If we do it for North York, I can

assure you that within this calendar year half a dozen municipalities will be asking for similar powers.

Having said all that, the government does not recommend support of this clause of the bill.

Mr. Elston: You feel that another half-dozen municipalities may be requesting the same sorts of authority which this bill is requesting for North York. Doesn't that tell you something about the concern the municipalities have for upgrading of facilities and for dealing with the evaluation of services and things? It just seems to me that in most cases municipalities are not running around asking for something they do not need.

Mr. Rotenberg: The guts, the basis of it, is money. It is a lot easier for a municipal council to take a developer--that big, rich, fat developer out there--and stick it to him than to add a half a mill on the tax rate for essential services. That is really what you are talking about.

Sure, every municipal council would like to get someone else other than "the taxpayer" to pay for upgrading their services, but it is the responsibility of the municipal council to provide the services.

Certain things can be done by local improvements. There are ways of doing some of these things, but the basic philosophy, which we had from other municipalities during the planning procedure, is, "Stick it to the developers and let's not put it on the tax rate." That is why they are going to be here.

We feel there are certain things which belong on the general tax rate. That is the way we have been doing it in this province for a number of years. From all the hearings we had on the Planning Act last year, there seems to be no reason to change some of those basic concepts.

11:50 a.m.

Mr. Spensieri: I would like to comment very briefly on the parliamentary assistant's comments about the "stick-it-to-the-developer" kind of legislation, if he will allow me to use his phrase.

It seems to me that the question of ancillary levies, or the ability to extract additional funds from a developer as a condition of rezoning or redevelopment permission, is only a very minor part of this proposed legislation. It is not its main thrust. I shall ask Mr. Onley in a moment whether he thinks the most important aim of section 2 is to extract additional financial concessions.

What the section really addresses--in my humble view--is the question of being able to effectively impose conditions which have to do with the concomitant uses in the immediate surroundings and the overall development of an area, such as the recent example we had with the Murpny-Hall-Eldebrook development in the north area of Jane Street and Finch Avenue.

It seems to me that this section would attempt to address those kinds of legitimate conditions which a municipality would be able to demand as part of granting a rezoning and redevelopment permit.

Mr. Onley, my precise question is, is this a kind of a money-grabbing type of bill, or is it really a wise planning type of legislation? How do you see it?

Mr. Onley: It is wise planning, although some of its aspects deal with redevelopment levies. Remember that these lands never paid any levies and that it is only with respect to these lands that are coming up. When it is put on a general rate, that means that everyone else in the municipality contributes towards the cost. To put it on local improvement means that it may take two or three years to get the thing through.

Your comment about Jane and Finch and the northwest corner is one that I should have thought of. The reason that it is co-ordinated is that it just so happened that one developer owned the whole land, and we were able to get school sites and parks and walkways and everything else by subdivision. If it had been owned by several individual separate people, we could not have done it. That is all we are asking.

Mr. Spensieri: Mr. Onley, there are parts of North York where the demand for housing and for high-quality development is so large that whether it is a condominium or rental situation, the developer-owner will be able to get financial returns which are way above those which would be applicable to a less desirable area such as--just to use an example--the Riverdale area or whatever.

We know developers are building with a view to receiving the maximum income. What do you see as being intrinsically unfair in demanding that, as a licence for being able to participate in these above-average returns--we have just had an example in the Yonge St. and Sheppard Ave. area where the lowest price in a co-operative apartment, which presumably was supposed to be able to provide more reasonable housing, was in the range of \$700 a month.

If that's what these developers are getting, do you see anything wrong with demanding--obviously you do not, but perhaps you could explain--very large concessions in terms of schools, roads and the upgrading of services? This is from the standpoint of an economic analysis.

Mr. Onley: The levies are such a small part of the total picture--examples of levies are \$300 a suite. That is just nothing. We see nothing wrong with requiring that the person who is seeking the redevelopment of those lands--do not forget we are talking of redevelopment--should pay a fair share towards the cost of putting in the services that are required for his development. I am not talking about paying for a firehall that is going to be located 10 miles away, but about services and the costs related to supplying services to those lands. That is all.

Mr. Swart: I should like to ask one question of the parliamentary assistant. Is your name Oxley?

Mr. Onley: It is Onley.

Mr. Rotenberg: Do you remember when he was solicitor of the Association of Municipalities of Ontario? Were you not with AMO when he was there?

Mr. Swart: Yes, but that was a while ago, too.

What are the limits on the lot charges? Is there a limit? I know that at one time there was.

Mr. Rotenberg: On subdivisions?

Mr. Swart: Yes.

Mr. Rotenberg: I do not think there is a cash limit.

Mr. Mitchell: I do not think there is.

Mr. Swart: There is no limit at present? The municipality can charge whatever they want?

Mr. Rotenberg: There are only certain things they can charge for. Also, that has to be approved. Charlie probably knows better than I do.

Mr. Onley: To answer that, if I may: There has been a series of court cases on consents. The reason for that has been that it is easier for a person to go to court when he only has to deal with two or three lots on a consent than if he is going to be held up with a big, long subdivision.

Please do not think that we are only talking about levies here, but in answer to your question, the courts have held that any levies must be reasonably related. That may not sound like a precise answer, but it is a valid one. It sets the test. Some of the court cases went to the Court of Appeal, but none of them went to the Supreme Court of Canada. The ground rules have been set.

In the case of the bill before you, if we tried--we are not going to--to extract far too much, the person can go to the Ontario Municipal Board and seek redress there. The municipal board, though not a court as such, reads all the court reports that are related to it, as I have found to my chagrin the odd time when they throw at me a case which I have not reviewed before it happened.

Mr. Swart: May I just make a few comments? I realize that this, like many issues, is not all black and white; that the lot levies or other costs assessed against the developer, are in one way or another passed through ultimately to the tenants, very frequently with additional interest rates and so on. Ultimately the tenants are going to pay those costs, so there has to be concern that we do not price accommodation at a level that the

majority of people cannot afford to pay. It is all part of the cost.

On the other hand, it is not unreasonable that, where there is a pattern on subdivisions that always has been enforced in a municipality, and substantial charges are made on the subdivision, which is new housing accommodation, and where this land has not paid any levies before, or any cost for the services-- When I was first in municipal politics, there were no lot levies on subdivisions, apart from the direct services within the subdivision. Even the oversized services were often paid by the municipality.

This does become a tax on other people. So our job, and the job of the municipal council, is to find a balance between what the new dwellers in there are going to pay for the services, and the home owners in the rest of the municipality. As I say, it is not all black and it is not all white.

I think, however, I have to take some issue with the parliamentary assistant's statement that these charges should not take place. Conditions in the province have changed tremendously in the last 10 or 20 years, as we well know, particularly in the boroughs in the Toronto area. The apartments which are built now, may be 20, 30 or 40 storeys. Formerly, there may only have been four or six storeys. Therefore, tremendously costly changes have to be made within that immediate area with regard to traffic, sewers, and water and all the other services which have to be provided.

12 noon

I don't think it is just to say that the other ratepayers should have to bear all those costs. We should try to arrive at some system and perhaps this can be worked out first, again, by permission that apparently has been granted to some municipalities so the municipalities can do this and ultimately work it into provincial policy. As has been stated by the parliamentary assistant, there is no unanimity among the municipalities on this matter at the present time. Where one municipality or several want to go into sort of a pilot project on this, I think maybe we should take a look at this.

One of the injustices in area like Toronto and, incidentally, even down my way now in St. Catharines and elsewhere, where old houses are being removed and new apartment buildings are going up, is that in many instances you find a situation where the neighbours are strenuously opposed to this taking place in the first place. It devalues their property, their individual homes and those of neighbours adjacent to it. It demolishes communities. Then, after all this is gone and there are these new high-rise apartments which are going to go up in the neighbourhood, they find their taxes are going to go up to pay for that change which they opposed in the first place.

It's understandable that some of the people would oppose this. I think perhaps I would if I was there.

This is really, for practical purposes, a new subdivision. The amount of land which is being used is really a whole new subdivision. To say somehow or other the principle is, just because this had been subdivided property, it now should not bear any of the costs that a normal subdivision would, I think, quite frankly, is unreasonable. We should take a good look at what they are proposing here. I am not sure. This bill, as I look at it, doesn't provide any limits on what may be charged. There may be adequate recourse for safeguards to the Ontario Municipal Board on this.

I have to confess that I have been out of municipal politics a while and I'm not entirely familiar with that, but I think there has to be some safeguards because there is some validity in the statement. As anybody in this room knows, neither I nor my party are normally on the side of the developers, the land speculators, but there is some validity in the statement made by the parliamentary assistant that politically it is easy to say the developer should pay the whole cost. I know that by the time that gets to the tenant, or in the case of condominiums, by the time that gets to the purchaser, that cost they have been assessed is probably doubled by the time it gets passed through with the interest that has been added to it.

I guess what I am saying is that I support the proposal in principle which is before us if we can have some safeguards written into it or if we can be assured that there are adequate safeguards so there aren't tremendous, unreasonable costs assessed. I can see, for instance, where the costs of a new high-rise or two or three high-rises in an area could mean new water lines, new sewer lines, new storm sewers, new roads and all the rest of it. If those costs are all charged to those particular high-rises, it could just drive the costs out of all reason.

We have to find that balance, and I don't think we are at that balance now where you can't assess any of these costs to the new development which, in fact, is creating these costs and which, for all practical purposes, is a new residential development.

Mr. Rotenberg: Mr. Chairman, I must apologize. Since I spoke a few minutes ago I have a little more detailed information which may be of assistance to the committee if I could ask for a couple more minutes.

First, one thing I understand, Mr. Onley, is that your municipality does not use the site-plan control mechanism which is available to you. Is that correct?

Mr. Onley: Yes, we do. We do not do it by having a site-plan control bylaw under the provisions of the Planning Act, but our object in preparing the rezoning bylaw is to accomplish substantially that. The difficulty with going under the site-plan control under the Planning Act is that you limit things you can do to the enumerated items I spoke of. To go under site-planning control does not solve the problem.

Mr. Rotenberg: The site-planning control does not solve the financial problem. Through the site-planning control, as those

who were involved in the Planning Act will remember, you can acquire, at no expense to the municipality, widening of highways; facilities to provide access to and from the land; access ramps and curbs; off-street vehicular loading and parking facilities; walkways and walkway ramps, including the surfacing thereof and all other means of pedestrian access; facilities for lighting; walls, fences, hedges, trees, shrubs, etc.; vaults, central storage and collection areas for the storage of garbage; easements conveyed to the municipality for watercourses, ditches and drainage and so on; grading or alteration. All those things can be extracted from a redeveloper by a site-plan control agreement, which is binding on future owners.

There can be a side agreement, as some municipalities have, and there is a very famous one in North York which I have been fighting because they rezoned Yorkdale Plaza. They had a very simple rezoning and had a side agreement which never came back to the Ontario Municipal Board and therefore the local ratepayers can never attack the agreement because it will never be approved. If you have one of these kind of side agreements that is just between the developer and the municipality which wasn't part of a legislative agreement, then it's not binding on the future owners. If you go under the legislation, as North York should do, they can extract all those things.

Mr. Onley asked how are you going to get the underground walkways co-ordinated? You can do it under site planning control. Under the old Planning Act, where there was a residential redevelopment you would get five per cent for park land, even on a redevelopment. Under the new Planning Act, you can still get the five per cent for park land and you can also get two per cent on an industrial or commercial redevelopment for park land. That's a form of lot levy which, as Mr. Swart says, has a limit.

Also under section 215 of the Municipal Act, where, with the approval of the municipal board, it is deemed that this new high-rise development imposes an extra heavy load on the sewer or water system which wouldn't otherwise be required, you can require the developer to pay for that.

Under redevelopment you can't get new roads. Of course, if you're just redeveloping one piece of property, there is not a new road required. If you're developing Jane and Finch, which is a massive development, it is a subdivision.

Mr. Mitchell: May I just interject at this point? If you're doing a land assembly and you're laying out a condominium development on that, surely if there are roadways required in there, you are getting them. What are you talking about in the way of new roads?

Mr. Rotenberg: The roadways in a condominium development are usually private roads. I'm talking about new public roads. You can't force the developer to give you land for new roads.

Mr. Mitchell: Some, in fact, do by agreement with the municipalities. That happened today.

Mr. Spensieri: I have a supplementary, Mr. Chairman, following on Mr. Rotenberg's point. Surely Mr. Rotenberg is aware and knows that the sophistication of assemblers today, especially in North York, is such that as they begin to assemble piece by piece they will proceed with a piecemeal rezoning on each individual parcel they acquire without ever having, even in their own minds at that point, a definite and conclusive view of what they will do with those rezoned pieces once they are assembled. If a municipality does not have a control as each and every state of the assembly process is taking place, all it can do it refuse or grant a rezoning application.

Mr. Mitchell: It's hard to argue without a good planning principle.

Mr. Spensieri: When the various pieces thus rezoned are finally brought together for the purposes of a mammoth development, whether it be residential or commercial, that's when Mr. Rotenberg would lead us to believe that the site plan or the collateral agreement would be sufficient. Then the harm has already been done. There has been a piecemeal rezoning on a piece by piece basis.

Mr. Mitchell: With respect, Mr. Chairman, I must enter in on this particular thing. How is it some municipalities, and I use my own as an example where they did a study on a specific area themselves and said development will go this way, have managed to hold to it? As a result, they get all those very things you're talking about. Why is it other municipalities seem apparently able to work it?

12:10 p.m.

Mr. Rotenberg: If I may continue to answer Mr. Spensieri's question, I would assume that any municipality which has any sophistication--I am sure North York has sophistication--where there is an official plan which says that this whole area--Jane and Finch or Leslie and Don Mills or wherever it may be--is going to be eligible for rezoning, if they have any responsibility towards the planning process, they will look at the entire area--whether it is to be assembled by one developer or six developers or 14 developers, it does not matter--and lay out a comprehensive, official plan statement for that area before they do the first rezoning. That is the way it should be done. That is what the Planning Act anticipates.

If they are anticipating a land assembly by one developer or a number of developers, yes, they can do individual rezonings, but before they even do the first rezoning, they should follow the simple basis of the planning process. Some municipalities do not because they make lovely little deals with individual developers. If you follow the simple basis of the planning process, you say: "This quadrant of this area is going to be redeveloped. These are the rough densities we want. These are the new facilities we need. We need so much park land. We need so many roads," and so on. You impose site-plan control in your official plan before you do the first rezoning.

With each rezoning, as it comes forward, you enter into a site-plan agreement, which is binding on all successors in title, taking from that developer for that portion of the entire development maybe cash in lieu of park land. If you know the road down the middle is going to have to go from 24 feet to 50 feet, you take from each developer as he comes along the amount you need for road widenings. You take from each developer as he comes along through the Municipal Act the amount of dollars you need for sewer capacity. You take from each developer whatever else you need for the co-ordination of the off-street, lower parking facilities, etc. You do this on proper planning.

If you are the type of municipality where a developer can come into the mayor's office and say that he is going to put up a high-rise which is going to mean so many taxes which is good for you, and you make a deal and put through a fast rezoning, then you are not going to have comprehensive planning. If a municipality does not go into comprehensive planning, if it wants to take each developer as he comes along and say it has a limit and is going to need a certain amount of dollars, it does not matter what anyone on this committee says, this act is a blank cheque to be able to take as many dollars, subject to Ontario Municipal Board approval, as the municipality can extract from the developer. That is what we are talking about.

Mr. Spensieri: That is not even its major objective.

Mr. Rotenberg: Of course it is its major objective. The other objectives can be handled, despite the fact that they do not do it. They can be handled by a comprehensive site-plan control situation. It can be done. It is done, as Bob Mitchell says, in many other municipalities. As I was saying, they cannot get schools out of it and they cannot get new roads, but most everything else they can get.

Mr. Onley asks now they can get walkways if there are three or four different developments coming down Yonge Street. You plan it in advance and take it from each one as they come. When they are all done, you have your walkway. You get your park land and you get your extra sewer levy and so on.

We did do all these things. We did change the site plan control. We added things in the site-plan control legislation to accomplish many of the things that Mr. Onley wants and many of the things Mr. Spensieri says they should have. But what is implicit in this private bill of North York is that they can say to the developer that they need so many dollars for this and for that, so let us make a deal.

Mr. Chairman: Mr. Mitchell, do you have more to say?

Mr. Mitchell: I go back to about five years ago when I was chairman of the regional planning committee in Ottawa-Carleton. Looking at the points that are listed in subsections 2(1) and 2(2), I see a number of things that our municipality has always been able to acquire. For example, clause 2(1)(a) says, "...whether the request conforms to the official

plan and adjacent development patterns." All it said in the preamble is "may have regard for."

Mr. Spensieri: How many dollars per square foot--

Mr. Mitchell: I realize each municipality is different. You are dealing with different land values and so on.

In clause 2(2)(a), it says, "...that highways shall be dedicated as the council considers necessary." Some municipalities are apparently able to do it. Where the land abuts an existing road, there has always been a procedure followed in the regional municipality of Ottawa-Carleton that where there is redevelopment and a possibility of future road widenings, the road widenings are provided for as part of the agreement.

"That the owner of the land enter into one or more agreements with the municipality dealing with such other matters." In my experience, these were normal things that were done. The one area that was raised was with regard to money. Mr. Onley raised the issue of fees where they have not been previously paid. Some municipalities have found a way of collecting where these fees had not been previously paid. Perhaps the parliamentary assistant can tell us how that can be done where it has not been previously paid.

Mr. Rotenberg: Fees for what?

Mr. Mitchell: In the residential developments, they are collecting charges for recreational purposes; the so-called buying in to the facilities that have been built.

Mr. Rotenberg: You asked me a question of how--

Mr. Mitchell: Surely an interesting question is whether the whole thing is premature. If a municipality looks at a large land redevelopment and sees that the sewers and so on are inadequate, it has, as Mr. Rotenberg pointed out, a very serious consideration. The developer says that either he goes now or does not go at all. The pressure is really on him to come forward and say that he is prepared to pick up the full oversizing that is required and go with it.

This has been done in the past. I do not know. I see many of these points already available to municipalities.

Mr. Rotenberg: He asked a question of how they get these fees. Well, they get the park lands in redevelopment. They get the sewers in redevelopment. They get the road widenings in redevelopment.

I might say in passing, that because North York does not use site-plan legislation like everyone else, Metropolitan Toronto cannot impose their road widenings on North York redevelopments. If there was a site-plan agreement in legislation, then Metro would not have to pay for road widenings to developers. We have to pay for it because North York does not have to follow legislation.

Under various existing provisions, they can get a number of these things. Whoever has the property and has been paying taxes all the years it has been in whatever development it has been in. Some taxes have been paid for the services over the years.

Mr. Brandt: I am having some difficulty with the problem that has been identified by North York. The municipality I was formerly involved with has probably put through \$100 million in development, as you may or may not be aware. In virtually all instances, either under revitalization, which is not available to North York because of the size of the community, or under redevelopment, virtually everything you require would be available under redevelopment.

So I find myself on this Friday morning agreeing with Mr. Rotenberg. I must either be tired or he is making a good case for the present situation. What I would like to know from Mr. Onley is what would happen, if this legislation was to pass, that you cannot get now under redevelopment or site agreements? Literally everything you want, as I understand it, could be placed into a site agreement.

To respond to what Mr. Swart commented on earlier, that development should be relatively self-sufficient--in other words, it should stand on its own. The experience in my own municipality is that the assessment generated by a very intensely developed parcel of property usually works to the benefit of the balance of the municipality. You pick up most of the upfront costs, if not all of them.

Second, because the development is very large and usually has a relatively high density, it tends to work in the balance of favour for the rest of the municipality.

I am trying to be sympathetic, because as an old municipal man--not old in years but in terms of experience--I always have a sympathy for a municipal position when they are before us. I would like to be helpful, but I think that most of the mechanisms that you need are in place now. That is what I am saying.

12:20 p.m.

Mr. Onley: Some of the mechanisms are available, very awkwardly. Sure, we can go on at a very slow pace and deal with things in a slow manner. We can go under the sections and set up things about park levies and so on. I repeat that this is not the major thrust of our concern. Our concern is to cover matters that are not covered under legislation.

I am sure a lot of development levies are paid, illegally. The developer says, "Well, if I don't pay him, I don't get the bylaw." We are suggesting and recommending here that we legalize matters that previously were just done between the parties.

The parliamentary assistant referred to Yorkdale. That is right. That was back in the 1950s. The reason they had an agreement like that was because there was no authority to have it as a legal agreement.

Let us give an example. You have a sub-trunk sewer coming up the east side of Queen's Park Crescent, and you have to move it to the other side. We just want the authority to require the developer to put it in and pay for it. We do not think it is fair to go into an area levy--no one else is going to benefit from it. The Parliament Buildings are here, they do not need it.

We are a big, boisterous municipality; we are not saying we are unique. We are getting a lot of major development and we just want to be able to do in a legal manner many things that are done already. Sure, you can go on at a slow pace and do it by site plan, but the site-plan authority does not cover the matters we are after. If it did, it would not be here.

Mr. Swart: What matters--

Mr. Onley: Matters requiring the extension of services, alluded to as far as matters--

Mr. Brandt: That can be covered under a site-plan agreement.

Mr. Onley: Sewers are a big one. Water mains are too.

Mr. Brandt: A portion of that cost can be assessed against the specific site agreement, can it not?

Mr. Rotenberg: You can assess it as a quota under the Municipal Act, and if the over-capacity will require more service--

Mr. Onley: Sure, you can assess under the Municipal Act, but that does not get the sewer put in.

Mr. Rotenberg: It gets them to pay their share, and the next developer to pay his share. You want this developer to pay for everyone in the future.

Mr. Onley: No, all we want is to have the services in. We are not talking about paying.

It is all very well, under the Municipal Act, to say, "Okay, we set a levy and they pay so much a year towards it." That is fine. Who puts the money up first? We have to.

Mr. Rotenberg: Mr. Onley, with respect, the sewerage you are putting in is for more than that one developer.

Mr. Onley: In many cases it is not. That is one of the points I am trying to make. In large redevelopments there are not only co-ordinated matters, but individual ones.

We have a renewal of the civic centre, a redevelopment of several hundred million dollars. In this case, the municipality owns the land, but if it were a private developer there are extensions of major services that are required. We are talking of major redevelopment. We do not have the situation such as downtown in the city of Toronto. All the main streets downtown are Metro roads, and the services are put in by Metro.

Mr. Brandt: I want to pursue this a little further.

You indicated that the city of Toronto had a somewhat different situation than North York. I am not clear on why that is so different.

Mr. Onley: One of the reasons it is so different is that you get 12 times the coverage. If you want to put up the Toronto Dominion Centre or First Canadian Place, this all fades into insignificance as far as they are concerned.

The second point is that many of those services are now in place and have been put there largely through the Metro concept. I am not arguing against Metro, it is a wonderful concept, but they are put in because of Metro.

For our civic centre, we have to bring in a sub-trunk sewer over many feet and several blocks, largely just for this development. If they were owned privately, under the Municipal Act we would have to put the money up front and so on. I hope, please, that it is not just the money. We are talking about legalizing many things that are done now.

Mr. Brandt: They are done by specific site agreement in a large number of instances where there has not been, to the best of my knowledge, any court challenge to the municipality and/or the developer who entered into those agreements. It may be a bit a *quid pro quo* in the sense that the development itself is put in with the clear understanding that, if the developer does not accede to what the municipality wants, he is not going to be able to go along with it. I fully appreciate that.

Whatever the catch 22 is, the reality is that right across this province--Mr. Mitchell has made a strong case for this and I can support everything he has said in that sense--I cannot think of an instance where my municipality was not able, not only to recover costs, but to do so in a way in which you could stand before the citizens of your community and indicate that development was going to make money for the rest of the community, and in fact reduce residential taxes elsewhere. In other words, the total impact of that development, once you had recovered all the things you allude to that you are not able to incorporate within the deal, and when the impact of assessment is taken into account, actually works as a direct benefit to the municipality.

What is bothering me is that I cannot get a handle on where you are being stymied or held back or unable to proceed. If it is cumbersome, if there is a time delay, that is a different argument, because I think, particularly at this time when there is something like 40 per cent unemployment in the construction field, anything we can do to expedite development, anything we can do to streamline the process to bring these kinds of things on more quickly, is very attractive to me and I am sure to the other members of the committee as well. If we could find a better way to do it, to achieve the same end but do it more quickly, I would be in favour of that.

Are you agreeing or disagreeing over there?

Mr. Swart: Let me come at this from another direction. Are you asking for anything in this bill that is not permitted at present with regard to a new subdivision?

Mr. Onley: No, sir, not one single thing.

Mr. Swart: What you are really asking for in this bill then is the same rules and regulations and authorities that exist at present for development of a new subdivision?

Mr. Onley: Yes, sir, and the words are taken exactly from the subdivision section. That is all we are asking.

Mr. Swart: It seems to me that although there are time elements involved, the main issue here is a financial one and perhaps one of legality with regard to the question that you raised, Mr. Brandt.

These agreements are in existence, many of them, and they are never challenged, but I think it is because of the fact that the parties to them are all supportive. The municipality, if it is able to get a bit more than provided for in the act, is supportive. The developer wants to go ahead and he signs his agreement and he is not going to object. The public are getting a bit more than they would have if the act had been followed. So no one has challenged it.

One of things that I understand is being asked for by Mr. Onley is the right to make these sorts of things legal. The other thing that is being asked for is to provide the same rights to a municipality on a redevelopment as it has on a new subdivision.

Mr. Rotenberg: That is not quite correct, Mr. Swart.

Mr. Swart: I am quite prepared to hear your side of it. What additional thing is he then asking for?

Mr. Rotenberg: A subdivision agreement, whether there is disagreement or not, must be approved by the minister, or in the new act it can be delegated to the regional council. In this situation the subdivision agreement is unilaterally in the hands of the municipality and only goes to the Ontario Municipal Board if a developer objects. If the developer says, "Look, I've got to pay this or I'm not going to get it," then he pays it, if it is a licence to collect more money from the redeveloper. Because the subdivision has the control of having to go to the minister to be approved, that is a whole different ball game.

Mr. Swart: I suppose I would ask Mr. Onley if he would be prepared to deal with this on the same basis as a new subdivision that should have the approval of a minister, which kind of approval will be handed down, I presume, to Metro in Toronto.

12:30 p.m.

Mr. Onley: We're talking here about a different breed of cat to an original subdivision that over a large area of land has

official plan amendments and where the province is involved because of hydro and schools and all these other things. We are talking here about a different matter.

If the committee were to recommend that yes, it go the same route as it would for a subdivision and go to the minister or the delegation to Metro, I suppose that can be done. Don't forget, however, that the official plan and the rezoning all have the control processes that are in place to control it.

Mr. Swart: As I've stated before, it just seems to me that you're really getting, for all practical purposes, a new subdivision. All of the costs to the municipality are there. The costs of this development are there. In fact, some of them are perhaps more expensive because you have to provide the services through existing developed land to this subdivision. All the costs of development are there as surely as if it were a brand new subdivision. Why shouldn't the municipality be able to assess the same charges against that development as if it were a brand new subdivision?

Mr. Rotenberg: Because there are existing services paid for by that piece of property in a redevelopment.

Mr. Swart: To a degree. They may be totally inadequate.

Mr. Rotenberg: Those things such as road widenings and sewers that are not adequate are provided for. As I say, one of the reasons we object to this is that this, in effect, is giving the municipality a blank cheque without controls.

Mr. Mitchell: I am not a lawyer, but I hear people talking about the legality of agreements that are signed. I would think that if two parties get together and say, "Look, as far as we are concerned, this is what it's got to be, or else," the person then has the recourse to appeal to the OMB or to say, "In the long run it's going to be better for me."

Once they've all signed this, unless they can prove that there has been real pressure on them, why is that agreement not any more binding than any contract you or I sign to buy a car or a house or whatever?

Mr. Rotenberg: The answer is very simple. The municipality does not have the authority to enter into certain types of agreements the municipality has entered into. If they are entered into voluntarily between the developer and the municipality, therefore they are binding on the two parties and certainly on the developer who signed it.

The problem that municipalities have and the problem North York has when they sign these kinds of agreements which aren't provided for in legislation is that the developer turns around and sells to a third party who hasn't signed the agreement and it's not binding on the third party.

Mr. Mitchell: Yes, I understand that.

Mr. Rotenberg: My contention is that other than the financial part, on the other things they want, they go by site plan--and what we're talking about then is time. If somebody from the municipality wants to make a fast deal, good luck to them, but if they want to do it properly they've got to take a little more time.

As this Legislature just said this past week when we passed the Planning Act, it's in the interest of the citizens of that municipality, as distinguished from the developers and the councillors, to take the time to do the agreements properly and have the proper planning studies for the site plan. That's all we're saying they have to do. If they don't want to take the time, then they don't get the various things the site-plan agreements will give them.

Mr. Chairman: Gentlemen, there appears to be no further discussion on that. The city of North York has requested that section 1 of the act be deleted. Since it is to be deleted in its entirety, the proper method of dealing with this is to vote against that section rather than to delete.

All those in favour of section 1 of the act please raise your hands.

All those opposed please raise your hands.

Section 1 negatived.

On section 2:

Mr. Chairman: With regard to section 2 there was an amendment that was suggested to clause 2(2)(c). Mr. Onley, do you wish that clause 2(2)(c) be amended as attached to your letter of November 8, 1982?

Mr. Onley: Yes.

Mr. Breithaupt: I think we can agree that the amendment, if you want that formally put, can be put in the section. Whether the section carries or not is entirely another matter. Is that the way you want to deal with it?

Mr. Chairman: Since it has been requested, I think it should be put. Do you wish to move that, Mr. Breithaupt?

Mr. Breithaupt moves that clause 2(2)(c) be deleted and replaced with the following:

"(c) that the owner of the lands enter into one or more agreements with the municipality dealing with such matters as the council may consider necessary, including the provision of municipal services, with agreement for a reasonable portion of the costs incurred for municipal services, including highways and their widenings, where such services, highways or widenings have already been provided for by the municipality and their prior provision enables the council to give favourable consideration to the request referred to in subsection 1."

Mr. Breithaupt: If that is accepted as the change, so the section otherwise appears before us, the committee could then deal with the section as amended on its merits.

Mr. Rotenberg: I have equal objection to either way clause (c) is put in, because they both, in effect, say that municipal council can charge whatever they want for whatever they want. It says the same thing either way.

Mr. Chairman: May we vote on Mr. Breithaupt's amendment of clause 2(2)(c)?

Motion negatived.

Mr. Chairman: The amending subsection is not placed therein.

Mr. Spensieri: Let it be recorded, Mr. Chairman, that the parliamentary assistant has no faith in the elected officials of North York.

Mr. Picné: That is uncalled for.

Mr. Rotenberg: I do not see any of them here.

Mr. Chairman: Shall we vote on section 2 as submitted in the original Bill Pr10?

All those in favour of section 2, please raise your hands. All those opposed, please raise your hands.

Section 2 negatived.

Section 3 negatived.

Mr. Chairman: Shall the preamble carry? Carried.

Interjection: The preamble will have to be amended.

Mr. Rotenberg: It has to be amended. There is nothing in it.

Mr. Swart: Mr. Chairman, did I hear you say the preamble carried?

Mr. Chairman: We had better vote again.

All those in favour of the preamble, please raise your hands. All those opposed, please raise your hands.

Preamble negatived.

Section 4 negatived.

Mr. Chairman: I presume I have nothing to report, so the bill will not be reported. Agreed?

Agreed.

Mr. Brandt: A question to the parliamentary assistant before we retire. I would like to request that some of the ministry people meet directly with the planning staff of North York to see if they can work out some of the difficulties they perceive they have at this time. Usually when the bureaucracy gets together with the intent of resolving some of these perceived difficulties, they can find the solution.

We voted against this particular bill because--

Mr. Elston: Because the parliamentary assistant told you to.

Mr. Brandt: No. As a matter of fact, we are not consistent in always voting with the parliamentary assistant, as he will tell you quite quickly.

I want to suggest that the only reason there was a negative response to this bill was that many of us felt that the mechanisms were in place. I want to be assured in my mind that we are not impeding the kinds of developments that North York anticipates are going to take place and that we can be as helpful as possible from a provincial standpoint.

Is it possible for you, Mr. Rotenberg, to set up?

Mr. Rotenberg: It is most possible. First, with a new Planning Act, there is a series of seminars being run by the ministry across the province.

12:40 p.m.

Second, the ministry staff, both the planning section and other sections, are available to any municipality at any time on request to discuss these kinds of matters.

I do not think it is incumbent upon our staff to call up North York and say, "Hey, your bill failed; do you want us to come and talk to you?"

Mr. Piché: We are making that request to you.

Mr. Rotenberg: I am saying to you that the staff is available for these specific items if North York wishes to talk to them and will be more than delighted to discuss all this with North York.

If you feel the initiative should be taken by our staff to call North York--

Mr. Piché: Why don't we do that?

Mr. Mitchell: With respect, Mr. Chairman, I think what is being suggested by Mr. Brandt is that we have defeated a bill here today which the city of North York feels very strongly about. Many of us, referring to our own past municipal experience, may see things and have seen things considerably different than North York.

I do not for a moment suggest I have all the answers. What may work for us and has been working for us--I can only base my judgement on things as I know them now.

Because we have defeated a bill here, we are asking the ministry to sit down with the city of North York, take the initiative and say: "We have responded in a certain fashion that certain things are allowed and can be done. Let's see your arguments as to why they cannot be."

It may result that a modification will have to be made to the Planning Act or--let's look a little further--at that point you may recognize there are some circumstances peculiar to North York that have to be addressed.

Mr. Rotenberg: The North York staff and our staff are in communication, not constantly but quite often. I see no harm, if the committee so desires, for our staff to initiate some discussion if North York desires it. It takes two to sit down at a table.

Mr. Mitchell: Precisely so.

Mr. Rotenberg: I may disagree with Mr. Onley, but--

Mr. Mitchell: David, I am saying it to keep the ministry off the hook. It is this committee that has made the decision, based on certain information we have. That is why we are making the suggestion.

Mr. Rotenberg: I would just say, with respect, although I may have disagreed from a policy point of view with some of Mr. Onley's presentation today and some of the things he wanted, I have great respect for Mr. Onley's knowledge of the law, the legislation and the acts. I am sure Mr. Onley is most knowledgeable, both because he is North York's solicitor and also because he is the Association of Municipalities of Ontario's solicitor.

Our staff will be more than happy to approach North York and say, "As a result of this, is there anything we can assist you with or help you with or discuss with you, or find some other ways of doing what you want to do."

Our staff is more than happy to do so.

Mr. Spensieri: The kind of powers that are being asked by North York in this particular bill will soon be requested by other municipalities. This is going to be an ongoing major issue as to what degree a municipality may be able to control and ask for upfront money from redevelopment.

In conjunction with the request so eminently sensibly made by the other members of this committee, I suggest we ask the ministry to provide a working position paper on this wider issue, not just in so far as it relates to North York.

Mr. Rotenberg: As I indicated at the beginning, there

are two aspects to the North York request. One was certain planning tools to require certain things to be done, like walkways. The other one was money, lot levies.

As I tried to say earlier, lot levies are a problem which has been on our plate for the last two or three years. Our staff, AMO and various municipalities are wrestling with it. It really is a most difficult situation. We are trying to do exactly what Mr. Spensieri is suggesting: come up with some new formulas or some new legislation for lot levies which will be satisfactory.

One of our problems is that every time we come up with an idea that some group of municipalities likes, some other group of municipalities come in and say, "You guys louse up our whole process."

One of the problems with lot levies--only one of them--is a vast disagreement among various developing municipalities as to how they think it should be done. I am not blaming the municipalities, because each individual one does it as they see fit, but it is very difficult for us when the municipalities cannot agree on what they want. Whatever we try to bring forward, we get more flak than we get agreement on. There are six or seven different ways out there that people want it done.

Mr. Spensieri, the ministry is wrestling with this problem and hopefully they can come up with something which may assist every municipality in the province.

Mr. Brandt: I just want to be clear on the request that seems to be supported by the other members of the committee. I want to make absolutely certain that there is dialogue between North York and the Ministry of Municipal Affairs and Housing, with respect to this specific problem. I frankly do not care about the propriety of who engineers the first phone call. I am concerned only that they sit down and talk.

As a follow-up on that, I would also like to have the members of this committee get a very brief précis from the ministry on the results of that meeting. If it is a standoff, if they still feel that the bill before us is the only way to proceed, I would like to know that.

I would also like the ministry's comments, directly from the ministry staff who are involved with this kind of redevelopment. I would like them to indicate to this committee why they feel so strongly about a status quo, no-change situation. I think that is important. The bottom line in my view is that the municipality is anxious to get on with some major, needed, urgent development at some point.

If we do anything from a planning standpoint, from a provincial perspective, we have some excellent planning legislation in place. However, at times, it takes too much time for that planning legislation to trigger a development that is actually going to come to reality.

Mr. Rotenberg said in his comments that you have to be

careful about the impact of a development on the balance of the municipality. I agree with that. Right now, at this particular critical economic point--planning is economics and no one can tell you anything different--a lot of people can be put to work if we can find ways to move these developments somewhat more quickly. I am interested in that perspective.

There is a certain amount of sheltering that goes on in the ministry, Mr. Rotenberg. I have dealt with it. There are well-meaning people who are a few miles removed from where the action is happening. The one-to-one negotiation with the developer becomes very complex and difficult.

If we can put in the hands of the municipality planning and economic tools that are workable, with reasonable safeguards, I am all for that. I have worked with the system. I know the system is good. I think there are places where it can be improved and where it can be made better. That is part of the exercise that I want to see us go through here.

Mr. Rotenberg: We spent the last three or four days going through that whole exercise in revising the Planning Act. We are now trying to revise the lot levies.

I have two senior staff members here; one from planning and one from municipal finance, the department which does the lot levies. They have both indicated to me that they understand what you are about in the presentation you make. They both indicated to me that they will do what they can. Naturally, the ministry will try and get some report to the members of this committee, but it will not be tomorrow.

Your speech has been heard by the staff who will be looking into it.

Mr. Brandt: I am not trying to be negative.

Mr. Rotenberg: I understand. I do not disagree with everything you have said, except that. The name of the game is not just to get development in the ground as fast as possible; the name of the game is to do it providing you have all the proper safeguards to the developer, the public and the municipality.

Mr. Brandt: And then get it into the ground as fast as possible.

Mr. Rotenberg: Right.

The committee adjourned at 12:48 p.m.

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STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

BARGNESI MINES LIMITED ACT

THURSDAY, FEBRUARY 17, 1983



STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

CHAIRMAN: Treleaven, R. L. (Oxford PC)
Brandt, A. S. (Sarnia PC)
Breithaupt, J. R. (Kitchener L)
Elston, M. J. (Huron-Bruce L)
Eves, E. L. (Parry Sound PC)
Mitchell, R. C. (Carleton PC)
Piché, R. L. (Cochrane North PC)
Renwick, J. A. (Riverdale NDP)
Spensieri, M. A. (Yorkview L)
Stevenson, K. R. (Durham-York PC)
Swart, M. L. (Welland-Thorold NDP)
Watson, A. N. (Chatham-Kent PC)

Clerk: Arnott, D.

Assisting the committee:
Revell, D. L., Legislative Counsel

From the Ministry of Consumer and Commercial Relations:
Ross, D. P., Solicitor, Company Law Branch

Witness:
Anisio, R. A., Solicitor, Bargnesi Mines Ltd.

STANDING COMMITTEE ON ADMINISTRATION OF JUSTICE

Thursday, February 17, 1983

The committee met at 4:48 p.m. in room 151.

BARGNESI MINES LIMITED ACT

Consideration of Bill Pr34, An Act to revive Bargnesi Mines Limited.

Mr. Chairman: Seeing a quorum at hand, I will call the justice committee to order to consider Bill Pr34, An Act to revive Bargnesi Mines Limited.

Mr. Williams: Mr. Chairman, as you have indicated, the purpose of the bill I am sponsoring this afternoon, Bill Pr34, is to revive Bargnesi Mines Ltd. The circumstances, however, are a little unusual and involve an estate situation which the solicitor for the estate will address and answer any questions with regard to it. In this respect I would introduce the solicitor for the beneficiaries of the estate, Richard Anisio, who will be prepared to elaborate further on the bill, the circumstances that bring it before us today and answer any questions of the members of the committee.

Mr. Anisio: Mr. Chairman, if I may refer to a letter which I submitted--

Mr. Chairman: Excuse me. Mr. Mitchell has something to say.

Mr. Mitchell: Mr. Chairman, I do not know whether the other members of the committee will indulge me just for a moment, but we have had an opportunity to read the background as to why this activity of ours is necessary. The legislative counsel has indicated there are no problems from his point of view. I think the reasons are clearly defined and laid out in the accompanying letter. I would suggest with all our agreement we would support the bill and call the various clauses.

Mr. Renwick: I have not read the letter.

Mr. Mitchell: Fair enough.

Mr. Chairman: Mr. Anisio, were you going to go through the letter itself?

Mr. Anisio: Yes.

Mr. Chairman: Perhaps you would and we will go along with you. It may become obvious then as soon as we are through the letter.

Mr. Anisio: The purpose of the application is to revive Bargnesi Mines Ltd., which was incorporated in 1959. On December 30, 1959, the company acquired two patented mining claims, which had been in the Bargnesi family since 1917. These claims had been hoped to be developed as an active mining operation, but unfortunately, because of prohibitive costs, it never developed. In 1959, Alfio Bargnesi decided upon the vehicle of incorporation in order to facilitate raising the needed capital to carry out development of production costs. Although the company was incorporated and the patented mining claims were transferred to the corporation, very little in the way of actual capital was raised and very little work was done except for some minor exploratory work and construction of some equipment buildings.

This was in actual fact a one-man corporation. Mr. Bargnesi had the title in the area of Boston Creek as the one-man mine of Boston Creek. He had total carriage of the affairs of the corporation and was very clear in his own mind as to what he wanted to accomplish. Those goals were never really realized. At the time of his death in 1972, the company was actually inactive for all intents and purposes.

Seconda Bargnesi, Mr. Bargnesi's mother, was a secretary of the corporation and she died the following year, in 1973. Both Alfio and Seconda died intestate and there was a problem with the corporation having lost its catalyst, its main mover, Alfio Bargnesi. The corporation fell into disrepair and there were some problems with respect to maintenance of records and filing of returns, which led to the cancellation of the charter of the company.

It is the intention of the family at present, if this bill is approved and the corporation is revived, to reorganize the company and obtain independent appraisals of the patented mining claims and seriously consider purchasing the property from the corporation. If that is the case, they will then distribute the funds pro rata among the shareholders, and in the event that any shareholder cannot be located, said portion would be paid over to the public trustee. I would point out that we have done a calculation of the family share ownership and it works out to a total of 91.59 per cent. That is out of the total of 950,005 shares issued from the corporation.

Mr. Renwick: I am sorry, how many shares were issued.

Mr. Anisio: There were 950,005. I would also point out that the actual viability of this property as an active mining operation was never really finally decided upon because of the cost of the exploratory work that would have to be undertaken. For example, the diamond drilling and so forth are very expensive. But I think this is an option that the family would consider now, just to satisfy itself whether or not there is any type of minerals worth even mining on a small scale. This is supposed to be a gold and copper producing property.

Again, at the time of the corporation in 1959, there was some minor exploratory work done but nothing of a very serious

nature, for example, electromagnetic surveys or magnetometers or any great amount of diamond drilling to produce a very definitive report that certainly would have interested any potential investors at the time.

Those are my comments, Mr. Chairman.

Mr. Renwick: Perhaps this is an obvious question, and I don't want to delay it. I have no problem, subject to the question, with the process about it.

I notice that Seconda Bargnesi died after Alfio Bargnesi and she was survived by her daughters Elsa Anisio, the applicant herein, and Alfia Bargnesi. What is the position of Alfia Bargnesi? In other words, why was Elsa the applicant and why is Alfia not an applicant? Is she protected under this bill?

Mr. Anisio: Yes. Alfia Bargnesi is at present hospitalized and would have been unable to have participated in any type of proceedings. We were unclear at the time as to exactly if there would be an appearance on the part of Alfia.

Mr. Renwick: Let me turn to the last but one paragraph of the letter to Donald Revell from you. "It is the intention of my family, if the act is granted, to reorganize the corporation, obtain independent appraisals, purchase the property from the corporation and distribute the sale proceeds pro rata among the shareholders." Who are the shareholders at the present time and who will be purchasing the property?

Mr. Anisio: This letter was written approximately one year ago.

Mr. Renwick: Right.

Mr. Anisio: If that option is pursued, it would be purchased by Elsa Anisio.

Mr. Renwick: Elsa would purchase the property?

Mr. Anisio: Yes. Alfia Barnesi owns--the shareholdings work out to 51.6 per cent.

Mr. Renwick: Elsa?

Mr. Anisio: Alfia. Alfia's shareholdings work out to 51.6 per cent of the outstanding shares.

Mr. Renwick: Do a series of people own the balance?

Mr. Anisio: Yes. Elsa owns 40.53 per cent.

Mr. Renwick: Elsa owns what percentage, sir?

Mr. Anisio: Excuse me one moment. Mr. Renwick, we have prepared a breakdown showing how we arrived at these percentages if you would like to have a copy.

Mr. Renwick: Perhaps you can answer. Maybe I won't need the breakdown. I just want to ask a couple of questions. Alfia owns 51.6 per cent.

Mr. Anisio: Right.

Mr. Renwick: Alfia is at the present time hospitalized. Elsa, the applicant, owns--

Mr. Anisio: Elsa owns 40.53 per cent.

Mr. Renwick: She owns 40.53 per cent?

Mr. Anisio: Yes.

Mr. Renwick: Right, and the other is spread out among a number of people?

Mr. Anisio: Yes. I have the list.

Mr. Renwick: I don't want to pry into your affairs. Since Alfia is the controlling shareholder, but is not the applicant and is hospitalized, is her interest going to be protected on the purchase by Elsa of the property from the corporation with respect to the amount that will be received and then, presumably, wound up and distributed? I hope I made my concern clear.

Mr. Anisio: Whether or not her portion of the proceeds would be made available to her?

Mr. Renwick: Whether the purchase price will be fair.

Mr. Anisio: Yes.

Mr. Renwick: Then if that purchase price is fair, on the dissolution of the corporation after payment of the expenses, Elsa will get 40 per cent of the purchase price back, Alfia will get 51 per cent back, and the others will be distributed?

Mr. Anisio: Yes.

5 p.m.

Mr. Renwick: May I ask, when you say hospitalized, do you mean physically or mentally hospitalized?

Mr. Anisio: She is suffering from Alzheimer's disease.

Mr. Renwick: I see. Who is protecting her interest?

Mr. Anisio: If this bill is approved, a committee would have to be appointed for her because the nature of the disease is that it is gradually debilitating her mental capacities, so her interests would have to be safeguarded by the appointment of a committee.

Mr. Renwick: Let me just raise the question that is bothering me. Believe me, Mr. Williams knows that I am not trying to delay your procedure and so on. I would think that in the circumstances there is, in a sense, an obligation on us before passing this bill to make certain that the holder of the 51.6 per cent, the controlling number of shares in the company, who can in fact elect a board of directors who will determine the fairness or otherwise of the appraiser and the appraised value at which it is to be bought by the minority shareholders--I am not worried about the others, it would appear to me--I don't want to be difficult--that the committee, or somebody who is representing her interest, must be the person who determines the fairness of the snares because to reorganize the corporation means that she, Alfia, will be able to determine who the board of directors of the company is. Are you with me, Mr. Chairman?

Mr. Chairman: Yes, I am. Might I take a supplementary? I understand from Mr. Revell there is one director still alive. Who is that?

Mr. Anisio: Mr. Frederick Melford.

Mr. Chairman: Might I ask another question? I am familiar with Alzheimer's disease. You didn't quite answer Mr. Renwick's question as to the mental state. How far progressed is she? Is she in an institution?

Mr. Renwick: If I could just interrupt, Mr. Anisio said that it would be necessary to appoint a committee.

Mr. Chairman: At this present time?

Mr. Renwick: Yes.

Mr. Chairman: And she holds 51 per cent.

Mr. Renwick: I am just asking what is our obligation in those circumstances where the majority shareholder is incapacitated and we are being asked to allow this to go through so that the property can be sold by the company--what we organized, who is going to represent the majority shareholder, then decide on the appraised value so that it is a fair value? I have no problem with the transaction going through; it is a question of the fairness of the value, because when the distribution then takes place, one would have to be certain that the majority shareholder got a proper price.

Mr. Eves: Mr. Chairman, just to follow up with a supplementary on my friend's question, that is exactly the point that I am concerned about and I think the committee members should be concerned about. What protection is there going to be for representation on the board of directors for the majority shareholder in the company? Maybe counsel could shed some light on that.

Mr. Renwick: We are not suggesting any bad faith or anything like that.

Mr. Eves: No, absolutely not.

Mr. Renwick: We are talking about what the proper process--

Mr. Chairman: Perhaps to expand on that, if it were revived today, and it is revived with one director in place, the committee proceedings would take some weeks, at best, maybe even months. What would happen in the meantime with the director then in place, as Mr. Renwick says, while we are waiting for the court to appoint this committee?

Mr. Anisio: Is Mr. Renwick concerned that there would be an attempted disposition of the property in general?

Mr. Chairman: He is concerned about the rights of that majority shareholder who is not able to exercise her own powers as the majority shareholder until a committee is appointed.

Mr. Renwick: Let me make one suggestion, and I am assuming there is some method by which the applicant will not be put to any further expense in connection with it. Is there any way in which the process could be reversed, that the bill would be held, the committee appointed and, when the new session comes here perhaps the committee would appear, along with the applicant, so that we could be satisfied that they understand our concerns about it. That's one way of dealing with it.

I would interested in Mr. Revell's comments about it as to whether or not the concern we have is a real concern and, from that point of view, whether there is any process by which we can solve it.

Mr. Revell: I think the committee has a legitimate right to be concerned in the circumstances. How we could approve the bill and hold it is much more difficult. Maybe if we were to put in a condition precedent sort of clause such as--and in listening to Mr. Renwick and to Mr. Eves and the chairman I've been just sort of doodling here. Perhaps it's a matter of maybe we can put in a clause, it would take a few minutes maybe to draft it, but something to prevent any disposition of the property of the corporation until such time as a committee has been appointed for--

Mr. Renwick: We have no way of controlling the compliance with such a condition.

Mr. Chairman: Is it possible that we simply adjourn this matter sine die?

Mr. Renwick: Mr. Anisio, the next session is going to start around April 11. I think it would be possible in all of the circumstances for the bill to be reintroduced at that time but not to have to go through the whole private bills process and without any additional expense.

Mr. Elston: With the exception of service of notice, I presume, on the committee or whoever is to act.

Mr. Renwick: Yes, and then when the bill next comes before the committee we would treat it as a formality at that point as long as the committee came and, if at all possible, the applicant, Elsa Anisio.

Mr. Chairman: What about the director?

Mr. Renwick: And the director, if he could come, so that we could express to them the concern which we have on it. I'm only fending around. I have never run into this before.

Mr. Mitchell: I must thank the member for Riverdale for drawing out the particulars of the situation, which obviously was not identified in the letter when we made our first comment and when we had asked legislative counsel. I think the member for Riverdale has raised an exceptionally good point.

I note that the solicitor representing the family is located in Toronto. I would, quite frankly, support the position that they should attempt to obtain, and I don't know whether I pronounce the word properly, committee. That should be done and we should see if there is any way we can resolve the other problems so that they can all be heard, along the lines the member for Riverdale pointed out. I think that's the route we should proceed with.

Mr. Revell: In terms of the procedural problems, technically, of course, a bill that is not considered dies on the Order Paper, but in the last two years we have had a number of private bills die on the Order Paper and they have been revived at the beginning of the session by motion from the government House leader that waives the advertising and waives the additional fee.

Mr. Renwick: It's perfectly acceptable to me. As I say, we'll be back early in April on that matter.

Mr. Chairman: Which is undoubtedly before you're going to have a committee in place, if the courts you deal with are as expeditious as the courts I usually deal with.

Mr. Elston: Not to mention (inaudible) reports, Mr. Chairman.

5:10 p.m.

Mr. Renwick: I presume Mr. Anisio would want to explore whether a committee is the simplest way or whether or not he might even speak to the public trustee and see in some way that the public trustee might protect his interest.

Mr. Chairman: It would depend on where she was. If she was in an Ontario hospital of any kind, the public trustee would--

Mr. Anisio: It is the Queen Elizabeth Hospital on Dunn Avenue.

Mr. Chairman: Is that a government institution?

Mr. Anisio: I believe it is.

Mr. Renwick: As far as I know, it is.

Mr. Chairman: If it is, then the public trustee would be the statutory committee.

Mr. Renwick: In other words, we don't want you to incur any more expense than you have to incur in order to accomplish it. That would be my view.

Mr. Ross: Not to diminish the concerns, but there are general catch-all, if you like, provisions in the normal course. For instance, if this were a situation in which the company was at present revived and in force and there was a committee situation, the directors of the corporation would have fiduciary duties under general law to--

Mr. Renwick: Yes, I understand, I am quite aware of that, but if we are passing a private bill I don't think we can rely on general law to provide the protection, now that we have knowledge of the situation.

Mr. Chairman: We have found fiduciary relationships in Ontario are not always honoured to the letter.

Mr. Renwick: Yes.

Mr. Ross: That is true. My only comment was to give a little more context to it. Who would be the heir of the woman?

Mr. Anisio: Elsa Anisio.

Mr. Ross: She is the applicant in this?

Mr. Renwick: No, they are sisters, according to the application.

Mr. Ross: But she would be the heir, would she not, in any event, of the woman who is--

Mr. Chairman: We don't know what the will of the--

Interjections.

Mr. Elston: I am interested, as well. How many directors are provided for?

Mr. Anisio: Three.

Mr. Elston: Has Mr. Melford got family connections as well?

Mr. Anisio: No.

Mr. Elston: He is an outside individual. Is he in good health, as well?

Mr. Anisio: Yes.

Mr. Elston: What about the other 8 1/2 per cent? There were other shareholders. You mentioned that there were several others. Are these people involved in outside financing, who may be affected by this as well?

Mr. Anisio: They are certainly not family members; they are strangers.

Mr. Elston: Have you written to them as well?

Mr. Anisio: There has been the appropriate publication. We published in the Globe and Mail and we have published in the Ontario Gazette. Mr. Melford is aware that we reinstating the company.

Mr. Elston: I was wondering, since you know who the shareholders are, if you had taken the liberty of dropping them a line with respect to this company and advising them that the family was considering taking these steps. How many are you talking about in terms of shareholders?

Mr. Anisio: Including family, we counted 22.

Mr. Elston: So there are probably 20 besides your mother and your aunt?

Mr. Anisio: Yes.

Mr. Elston: Are any of these people known to you or the family? I presume they are business acquaintances of your uncle.

Mr. Anisio: I assume the majority would be from the Boston Creek-Kirkland Lake area.

Mr. Elston: Okay. The thing that inspires that, I suppose, is that if these are people who actually became shareholders for the purposes of funding a development, you become somewhat more concerned. If, in fact, you have advertised in the Globe and Mail and in the Ontario Gazette, I know that is what is required. I guess we still run into the question of minority shareholders' rights and that type of thing, which I guess would be governed by--

Mr. Chairman: Carrying on from this, and just as a scenario, we have here an old corporation that was incorporated prior to 1971 when one-man corporations were available, so we have it set up that a three-man--I am sure the bylaws will say that they require three directors. Only one is alive; therefore, there isn't a quorum in place. Therefore, if it was revived, it would fall to the shareholders, to someone, to call a meeting.

This lady who has control, of course, couldn't respond unless there was a committee. Therefore, you could find the minority shareholders electing the directors and away goes the property--it is possible--gone before the lady and the fiduciary relationship can spring into place.

Mr. Elston: I don't think there is any suggestion on our part ~~that that is~~ going to happen.

Mr. Anisio: It is extremely remote.

Mr. Elston: I realize that.

Mr. Renwick: I agree with that position, but the fact of the matter is that if it is done properly and in an orderly fashion, there can then be no question about it.

Mr. Anisio: I appreciate your concerns, Mr. Renwick, and that is the reason why I have been trying to be candid in my comments, and certainly not in any way to try to be obtuse in the presentation.

Mr. Renwick: Oh, no.

Mr. Anisio: I think your comments are well noted. I am a solicitor, and I certainly have taken an oath, and I know what my responsibilities are as a barrister and a solicitor.

Mr. Renwick: Good. Yet you can conveniently notify the other shareholders so that they do know. That would not be of major concern to me. They are in the same position as any member of the public in circumstances like this. The notices were published, and so on, but I am concerned about the 92-odd per cent.

That seems like a reasonable way to do it, and I do not think it incommodes anyone.

Mr. Chairman: Mr. Revell has something in writing. Could you read it out?

Mr. Revell: Just perhaps to have something on the record with respect to the committee's recommendation, I have a draft motion here which the committee might like to consider, and then a member could move it at the appropriate stage: "That Bill Pr34 be adjourned sine die, and the committee recommends that if the bill dies on the order paper at the end of the present session, it be reintroduced in the next session without further notice being published in the Gazette or any newspaper and without payment of further filing fees."

Mr. Elston: Would that make special reference to the majority shareholder and to the minority ones, or not?

Mr. Chairman: It is probably not necessary to. Some of us presumably will still be here next year--

Mr. Renwick: Two months from now.

Mr. Chairman: Yes.

Mr. Mitchell: Next session.

Mr. Elston: Are some of us expecting a move?

Interjection: We may shoot ourselves in frustration.

Mr. Revell: There is one other point. Perhaps there should be a transcript of this particular hearing, so there may be a record of what has gone on--

Mr. Renwick: Does that need a motion?

Mr. Chairman: Yes. We need a motion that it be adjourned sine die.

Mr. Renwick moves the report that Mr. Revell has just prepared, and that a transcript of these proceedings be available for the committee when it is reconstituted in the new session.

Any further comments?

Mr. Williams: To be clear, if I might, it is my understanding that the matter would be put over for one specific purpose. That would be that in addition to the information that has been filed by the companies branch and by legislative counsel evidencing all the steps that have been taken necessary relative to revival, there is one further document that is required to be filed, and that is evidence of the appointment of a committee.

Mr. Renwick: We would like that committee present, Mr. Williams, to be here.

Mr. Williams: For what particular purpose?

Mr. Renwick: So that he would understand our concern.

Mr. Elston: We do know that he has to be advised of this, presumably. If he chose to be here, then I think that would be up to him.

Mr. Chairman: Or the solicitor would have some evidence that committee knew of this proceeding and some service of some kind.

Mr. Mitchell: Following the member for Riverdale (Mr. Renwick) and his concerns, surely if a letter was filed by the committee, saying that they were aware of what was being asked for and they concurred in what was being asked for, surely that would be sufficient for our committee.

Not being a lawyer--

Mr. Renwick: I do not want to pursue it too far. Why do I not just express my opinion about it? I would much prefer if the committee could be here. If he is unable to be here, then it will be on the understanding that the committee would have to be satisfied with the questions and answers or whatever else is there.

Mr. Chairman: Right. Any further comments? I noticed Mr. Elston sort of concurring with Mr. Renwick's sentiments.

Interjection.

5:20 p.m.

Mr. Chairman: I think that the point is that the committee has the controlling share interest. If that was a ten-percenter, I do not think it would matter at all, or even a minority. I think it is the fact that control goes with that and there are no directors in place.

We normally deal with the revivers. Where the director or the directors are sitting here, they are left in a dresser drawer. We do not have the intestacies and the mental incompetency.

Mr. Williams: Again, I just want to be clear as to what the outstanding matters are.

Mr. Chairman: Just that a committee be appointed and come in front of us. I suggest the court order of the county and the Supreme Court orders be filed with the clerk as evidence of the committee's appointment.

Mr. Williams: That is what I said a few moments ago. It is my understanding that the filing of the official documents evidencing the court appointment of a committee--

Mr. Chairman: Mr. Renwick has asked that the committee be here.

Mr. Renwick: I am always concerned that once the question has been raised that we do satisfy ourselves about it. I do not think it is a matter that can be dealt with now by this committee by papers being filed. It would be nice if that was so. I would be concerned if the committee, if at all possible, was not here. If he is not here, then I would like to have some evidence that he understands that he is the majority shareholder of a corporation that is going to have some very specific, definite responsibilities. You can tell me that, naturally, if he is appointed committee, he will know that. There have been committees that were not aware of some of their responsibilities.

Mr. Williams: I do not think that Mr. Anisio has any particular objections to that. It does go beyond the actual revival consideration, but given the circumstances, I do not see it as being unreasonable. I want to be clear that that is the one outstanding issue to be resolved.

Mr. Renwick: At this point, that is the one issue on my mind.

Mr. Williams: As far as the minority shareholders are concerned, the advertising has to be done.

Mr. Elston: The company's branch does indicate and the company law itself does indicate that they have certain remedies available if there is an abuse. They have to be advised of the sales and everything like that. I presume that--

Mr. Williams: Mr. Anisio did make it clear to the committee that the appropriate advertising had been done. I do not want that to be raised as an issue--

5:20 p.m.

Mr. Elston: I do not think there is any follow-up--

Mr. Williams: --at that time requiring something else to be asked--

Mr. Elston: That is right.

Mr. Renwick: As far as I am concerned, if the committee were here and we were able to express our views to the committee, that would be the end of it.

Mr. Williams: Mr. Anisio was just clarifying with me then that he and committee as appointed would appear for purposes of final disposition of this matter. That would be satisfactory. Mr. Ross may have something to add.

Mr. Ross: Just to be clear, as Mr. Anisio is related to the woman, it may well be that he would be appointed to the committee. Would the committee have any objection to that if he were made the committee?

Mr. Elston: I think he has to deal with that himself. There might be some concern expressed in the application. If everybody was agreeable, we would have to look at that, but it is up to him to determine under his position as a professional whether or not that is appropriate. If he makes that decision, then we will have to deal with that when it comes in front of us.

Mr. Williams: Would it not be the responsibility of another body to make that determination, the people appointing him would have to determine--

Mr. Chairman: That would be up to a court to decide the appropriateness.

Mr. Renwick: I would certainly be expressing my concern if the conflict of interest, which is present, was evident by having the same person acting for the applicant as was acting for the majority shareholders.

Mr. Williams: I am sure the court would be the first to express that if they thought there was any conflict involved.

Mr. Renwick: I would assume so.

Mr. Chairman: I would make one further suggestion. Probably the order of the county court judge originally hearing it will have attached a list of assets listing the majority shares of the corporation, the shares we are talking about.

However, if it does not, it will probably be helpful for the committee at that point to have a list of the assets and the affidavits that were involved in the original application to show that those assets were listed among the assets of the mentally incompetent.

Mr. Williams: The assets of the corporation?

Mr. Chairman: No, the assets of the mentally incompetent, which will have among them the majority shares in this corporation. It would just be one more piece of evidence that those shares were there, the judge saw them, and the committee is completely aware of them.

Mr. Mitchell: Of course, that would be a question of placing that to the committee really.

Mr. Chairman: I am suggesting that would be a nice piece of evidence to have available when we reconsider this.

Mr. Renwick: May we call the question?

Mr. Chairman: Yes, now dealing with Mr. Renwick's motion--

Mr. Williams: I want to make sure that Mr. Anisio is completely satisfied and understands all of the things that are put forward.

Mr. Piché: When Mr. Renwick asks for the motion to be called, is he using section 36 on this bill?

Mr. Renwick: It's strictly in accordance with the rules.

Mr. Piché: We are now even.

Mr. Williams: Fine. Mr. Anisio is satisfied.

Mr. Chairman: All those in favour of Mr. Renwick's motion, please raise their hands. Opposed?

Motion agreed to.

Mr. Brandt: That is a first, isn't it? Unanimous support?

Mr. Renwick: There is one every 20 years.

Mr. Chairman: Gentlemen, I think that concludes the business of the day.

The committee adjourned at 5:26 p.m.

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